

LAW AND DEVELOPMENT
(L06.3554.001)
Fall 2008

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SYLLABUS

This syllabus will give you an idea of what topics we will cover and in what order. There is also posted on BlackBoard an Introduction to the Course, which explains my approach to the subject and gives you administrative details about exams, office hours, etc. The readings are subject to change as I find more appropriate or current material, but those through Topic V (Legal Theories of Development) are unlikely to change much if at all. As changes are made, a revised syllabus will be posted so that by the end of the course, the posted syllabus will be an accurate record of what we have covered (and what will be covered by the exam).

Except for the Easterly book, which you should purchase, all readings will either be posted on BlackBoard or links will be provided to websites where you can access the material without charge. No hard copies will be distributed.

I have posted and listed below more material than I will assign, so please be attentive to specific assignments that I will provide by email in advance of class. I have included these readings because you may find them informative and useful for further research.

I have listed dates for specific topics, but they are subject to change.

Finally, although our first class is likely to be many of your first class of the semester, we will discuss the Carothers reading, so please make every effort to take a look at it, however cursory.

I. INTRODUCTION: CONCEPTIONS OF LAW

(Class 1: Wednesday, August 27, 2008)

Thomas Carothers, *The Rule of Law Revival*, FOREIGN AFFAIRS, 1998.

II. CONCEPTIONS OF DEVELOPMENT

(Classes 2 and 3: Wednesday, September 3, and Monday, September 8)

William Easterly, *To Help the Poor*, THE ELUSIVE QUEST FOR GROWTH: ECONOMISTS' ADVENTURES AND MISADVENTURES IN THE TROPICS (MIT Press, 2002) pp. 5-15.

Joseph Stiglitz, *The Ethical Economist*, FOREIGN AFFAIRS, November/December, 2005.

Amartya Sen, DEVELOPMENT AS FREEDOM, (New York: Knopf, 1999) pp. 3-53.

Jerome Segal, *The Politics of Simplicity; American Way of Life*, TIKKUN, July, 1996

Karl Polanyi, *Satanic Mill*, in THE GREAT TRANSFORMATION: THE POLITICAL AND ECONOMIC ORIGINS OF OUR TIME (1944), pp. 103-118.

H. W. Arndt, ECONOMIC DEVELOPMENT: THE HISTORY OF AN IDEA (1987), pp. 165-177 (and 1-48 for background reading only).

Arturo Escobar, ENCOUNTERING DEVELOPMENT: THE MAKING AND UNMAKING OF THE THIRD WORLD (Princeton U. P., 1995) pp. 3-10.

III: ECONOMIC THEORIES OF DEVELOPMENT

(Classes 4 and 5 Wednesday, September 10, and Monday, September 15)

William Easterly, THE ELUSIVE QUEST FOR GROWTH: ECONOMISTS' ADVENTURES AND MISADVENTURES IN THE TROPICS (MIT Press, 2002) pp. 26-120).

Mancur Olson, *Big Bills Left on the Sidewalk: Why Some Nations are Rich, and Others Poor*, 10 J. ECON. PERSP. 3-24 (1996).

Douglass C. North, *The New Institutional Economics and Third World Development*, in THE NEW INSTITUTIONAL ECONOMICS AND THIRD WORLD DEVELOPMENT 17-27 (J. Harriss et al. Eds., 1995).

IV: CULTURAL THEORIES OF DEVELOPMENT

(Classes 6 and 7: Wednesday, September 17, and Monday, September 22)

James S. Coleman, *Social Capital in the Creation of Human Capital*, 94 AM. J. SOCIOL. (Supplement) (1988) pp. S95-S120.

Francis Fukuyama, *Social Capital*, in CULTURE MATTERS: HOW VALUES SHAPE HUMAN PROGRESS (Lawrence E. Harrison & Samuel P. Huntington, eds. 2000) pp. 98-111.

Aaron Wildavsky, *How Cultural Theory Can Contribute to Understanding and Promoting Democracy, Science and Development*, CULTURE AND DEVELOPMENT IN AFRICA (World Bank/IBRD 1994) pp. 137-144, 147-150, and 153-158.

Lawrence E. Harrison, WHO PROSPERS? HOW CULTURAL VALUES SHAPE ECONOMIC AND POLITICAL SUCCESS (Basic Books, 1992) pp. 106-116.

Daniel Etounga-Manguelle, *Does Africa Need a Cultural Adjustment Program?* In CULTURE MATTERS: HOW VALUES SHAPE HUMAN PROGRESS (Lawrence E. Harrison & Samuel P. Huntington, eds. 2000) pp. 65-77.

S. A. Marglin, *Towards the Decolonization of the Mind*, in DOMINATING KNOWLEDGE: DEVELOPMENT, CULTURE, AND RESISTANCE (Frédérique Apffel Marglin and Stephen A. Marglin, eds. (Oxford, 1990) pp. 3-28.

Alexander de Tocqueville, *Relationships Between Civil and Political Associations and How the Americans Combat Individualism by Doctrine of Self-Interest Properly Understood* in DEMOCRACY IN AMERICA, PP.520-528.

V: LEGAL THEORIES OF DEVELOPMENT

V (A) SEEING LIKE A LAWYER?

(Class 8: Wednesday, September 24)

James Scott, SEEING LIKE A STATE, (Yale U. P., 1998), Introduction and Chapter 1, pp. 1-8,11-15, 20-23, 30-37, 44-52.

Ibrahim F.I. Shihata, *The World Bank and "Governance" Issues in its Borrowing Members*, in THE WORLD BANK IN A CHANGING WORLD, pp. 53-54 and 85.

Hernando de Soto, *The Costs and Importance of the Law*, in THE OTHER PATH (1996), pp. 131-187.

D. Kaufmann, A. Kraay, and P. Zoido-Lobaton, *Governance Matters* (World Bank Policy Research Working Paper 2196) (October, 1999)

V (B) THE LAW AND DEVELOPMENT MOVEMENTS

(Class 9: Monday September 29, 2008)

David M. Trubek & Marc Galanter, *Scholars in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies in the United States*, 4 WIS. L. REV. 1062 (1974). You need read only 1062-64 and 1070-end.

Richard A. Posner, "Creating a Legal Framework for Economic Development," 13 (1998) *World Bank Research Observer* 1.

VI: MARKETS AND MERCANTILISM

(Classes 10-14, (Wednesday, October 1, through Wednesday, October 15))

VI (A): THE EAST ASIAN DEVELOPMENTAL STATE

T. J. Pempel, *The Developmental Regime in a Changing World Economy*, in *THE DEVELOPMENTAL STATE* (Meredith Woo-Cummings ed 1999), pp. 137-181.

John K. M. Ohnesorge, *The Rule of Law, Economic Development and the Developmental States of Northeast Asia*, in *LAW AND DEVELOPMENT IN EAST AND SOUTHEAST ASIA* (1999).

Frank K. Upham, *The Man Who Would Import: a Cautionary Tale about Bucking the System in Japan*, 17 *THE JOURNAL OF JAPANESE STUDIES* 323 (1991).

Daniel Bell, *Confucian Constraints on Property Rights*

Donald Clarke, *Economic Development and the Rights Hypothesis: The China Problem*

VI (B): PRIVATE MARKETS IN RUSSIA AND BEYOND

(1) Transition Economies

David Lipton and Jeffrey Sachs, *Privatization in Eastern Europe: The Case of Poland*, *BROOKINGS PAPERS ON ECONOMIC ACTIVITY* 1990, NO. 2 (1990), pp. 80-89, 99-103, and 138-142.

James K. Galbraith, *Shock without Therapy*, *THE AMERICAN PROSPECT*, VOL. 13, ISSUE 15 (26 AUG 2002).

Stanley Fischer, *Socialist Economy Reform: Lessons of the First Three Years*, *THE AMERICAN ECONOMIC REVIEW* 83, NO. 2 (MAY 1993), pp. 390-393.

Marshall Pomer, *Introduction*, Kenneth Arrow, *The Role of Time*, and Victor Polterovich, *Institutional Traps*, in *THE NEW RUSSIA: TRANSITION GONE AWRY* (Lawrence R. Klein and Marshall Pomer, eds. 2001), 1-11, 85-91, and 93-116.

(2) Structural Adjustment and the IMF/World Bank

Thomas Biersteker, *Reducing the Role of the State in the Economy: A Conceptual Exploration of the IMF and World Bank Prescriptions*, *INTERNATIONAL STUDIES QUARTERLY* 34, NO. 4 (DEC 1990), 477-492.

Joseph Stiglitz, *Post Washington Consensus Consensus*, THE INITIATIVE FOR POLICY DIALOGUE (FORTHCOMING)

Lawrence H. Summers, Lant H. Pritchett, *The Structural Adjustment Debate*, THE AMERICAN ECONOMIC REVIEW 83, NO. 2 (MAY 1993), 383-389.

Abdi Ismail Samatar, *Structural Adjustment as Development Strategy? Bananas, Boom, and Poverty in Somalia*, ECONOMIC GEOGRAPHY 69, NO. 1, AFRICAN DEVELOPMENT (JAN 1993), 25-43.

Supplemental Reading

Joseph Stiglitz, GLOBALIZATION AND IT'S DISCONTENTS (2003), 53-88

Maxwell Cameron, Lisa North, *Development Paths at a Crossroads: Peru in Light of the East Asian Experience*, LATIN AMERICAN PERSPECTIVES 25, NO. 5 (SEP 1998), 50-66.)

Structural Adjustment Participatory Review International Network (SAPRIN), *The Policy Roots of Economic Crisis and Poverty: A Multi-Country Participatory Assessment of Structural Adjustment* (April 2002). Ch 5, 91-110; CHAP 9, 173-188.

VII. LAW AND ...

(Classes 15-22: Monday, October 20 through Wednesday, November 12, 2008)

VII (A): LAW AND INVESTMENT: PROPERTY RIGHTS

Pennsylvania Coal Company v. Sanderson and Wife

Yingyi Qian, *How Reform Worked in China* in Dani Rodrik, ed., IN SEARCH OF PROSPERITY: ANALYTIC NARRATIVES ON ECONOMIC GROWTH (PUP, 2003), pp. 297-318 and 322-331.

Supplemental Reading

Brandt, et al, *Land Rights in Rural China: Facts, Fictions and Issues*, 47 THE CHINA JOURNAL, pp. 67-97 (2002).

VII (B): LAW AND THE INFORMAL SECTOR

Hernando De Soto, THE OTHER PATH (1996), pp. xiii-xvii, xiv, 131-187

Hernando De Soto, THE MYSTERY OF CAPITAL, pp. 153-161,163, 166, 180-187, 189-197

Ann Varley, *A New Model of Urban Land Regularisation in Mexico? The Role of Oppositional Government*, THE EUROPEAN JOURNAL OF DEVELOPMENT RESEARCH (Vol. 11, No. 2, December 1999), pp. 235-261.

James Holston, *The Misrule of Law: Land and Usurpation in Brazil*, 33(4) COMPARATIVE STUDIES IN SOCIETY AND HISTORY, pp. 695-709, 709-720 (skim only), and 720-725 (1991).

Supplemental Reading

Erica Field, *Entitled to Work: Urban Property Rights and Labor Supply in Peru* (2002) pages 1-7 and 22-37

http://www2.gsb.columbia.edu/divisions/finance/seminars/micro/spring_03/Field_paper.pdf

Victor E. Tokman, *The Informal Sector in Latin America: From Underground to Legality*, in BEYOND REGULATION: THE INFORMAL ECONOMY IN LATIN AMERICA (Victor E. Tokman, ed., 1992), pp.3-20

Martha Chen, *Rethinking the Informal Economy*, Paper presented at the EGDI and UNU-WIDER Conference, *Unlocking Human Potential: Linking the Informal and Formal Sectors*, 17-18 September 2004, Helsinki, Finland

Available at http://www.wiego.org/papers/2005/unifem/5_Chen_WIDER_paper.pdf

Malcolm H. Dunn, *Privatization, Land Reform, and Property Rights: The Mexican Experience*, 11 CONSTITUTIONAL POLITICAL ECONOMY, pp. 215-230 (2000).

VII (C): LAW AND GOVERNANCE

1. Corruption

D. Kaufmann, *Rethinking Governance Matters: Empirical Lessons Challenge Orthodoxy* (March 2003).

Pranad Bardhan, *Corruption and Development: A Review of the Issues*, in JOURNAL OF ECONOMIC LITERATURE, Vol. 35, No. 3 (September, 1997), pp. 1320-1346.

Jean Ensminger, *Getting to the Bottom of Corruption: An African Case Study in Community Driven Development* [hard copy only, not for circulation]

2. Law, Development, and Democracy

Fareed Zakaria, *The Rise of Illiberal Democracy*, FOREIGN AFFAIRS, Nov./ Dec. 1997, at 22.

Philip Keefer, *Governance and Economic Growth*, DANCING WITH GIANTS: CHINA, INDIA AND THE GLOBAL ECONOMY (World Bank, 2008), pp. 211-242.

Supplemental Reading

Thomas Carothers, AIDING DEMOCRACY ABROAD: THE LEARNING CURVE (1999), pp. 49-51, 54-58, 85-122, 157-177.

3. Creating Legal Institutions

Zhang Yi-mo, *The Story of Qiu Zhu* (film)

Lubman, pp. 102-137 (You need only skim 113-116 and 118-122).

Upham, *Who Will Find the Defendant if He Stays with His Sheep? Justice in Rural China*, 114 Yale L. Jo. (2005), pp. 1675-1718.

VIII: AFRICAN CASE STUDY

(Classes 23 and 24: Monday, November 17, and Wednesday, November 19)

The Heart of the Matter, ECONOMIST, May 13, 2000 (six pages).

Richard Sandbrook, THE POLITICS OF AFRICA'S ECONOMIC RECOVERY, (Oxford U. P., 1993), chapters 1-3, pp. 1-69. Read 1-4, 12-24, and 46-50 for class. The rest is supplemental reading.

Patrick Chabal and Jean-Pascal Daloz, AFRICA WORKS: DISORDER AS POLITICAL INSTRUMENT (Indiana UP), pp. 1-44 (Chapters 1, 2, and 3). Read 1-30 for class. The rest is supplemental reading.

Mahmood Mamdani, CITIZEN AND SUBJECT: CONTEMPORARY AFRICA AND THE LEGACY OF LATE COLONIALISM, (Princeton U. P., 1996), chapters 1, 3, 4, & 8, pp. 3-34, 62-137, and 285-301. Read 62-82, 102-108, and 109-137 for class. The rest is supplemental reading.

Atul Kohli, *Where Do High-Growth Political Economies Come From? The Japanese Lineage of Korea's "Developmental State*, in THE DEVELOPMENTAL STATE, Meredith Woo-Cumings ed. (Cornell U. P., 1999), pp. 93-136.

IX: GLOBALIZATION AND DEVELOPMENT

(Classes 25 and 26: Monday, November 24, and Wednesday, November 26)

IX (A): MAKING LEGAL SYSTEMS COMPARABLE

Kevin Davis, *Taking the Measure of Law: The Case of the Doing Business Project*, 32 LAW & SOCIAL INQUIRY 1095-1119, Fall 2008.

World Bank, *Enforcing Contracts*, DOING BUSINESS IN 2004: UNDERSTANDING REGULATION, 41-53.

IX (B): DEVELOPMENT FINANCE

Mitchell Kane, *Bootstraps, Poverty Traps and Poverty Pits: Tax Treaties as Novel Tools for Development Finance*.

FINAL CLASSES: THEMES

(Class 27 and 28, Monday, December 1, and Wednesday, December 3)

Daniel Fitzpatrick, *Evolution and Chaos in Property Rights Systems: The Third World Tragedy of Contested Access*, 115 THE YALE LAW JOURNAL (2006), pp. 996-1048.

Dani Rodrik, *Trade as if Development Really Mattered*, in In Search of Prosperity: Analytic Narratives on Economic Growth (edited), Princeton University Press, 2003.