LAW AND DEVELOPMENT
PROFESSOR DAVID KENNEDY
SPRING 2012

Course Description:
This course will deal with past and present debates over the role of the legal order in economic
development. We will explore the relationships among economic ideas, legal ideas and the
development policies pursued at the national and international level in successive historical periods.
We will focus on the potential for an alliance of heterogenous traditions from economics, law and
other disciplines to understand development.

Readings:
We will aim to cover one assignment per class. Required and recommended readings marked “DM” are
in the distributed materials available at the distribution center, except when they come from one of
the following texts, which you should probably purchase. Significant portions of each will be
required reading.

JAMES CYPHER and JAMES DIETZ, The Process of Economic Development (Routledge, 3rd edition,
2009)

GERALD M. MEIER, Biography of a Subject: An Evolution of Development Economics (Oxford
University Press, 2005)

Appraisal (Cambridge University Press, 2006)

HA-JOON CHANG, Rethinking Development Economics (Anthem Press, 2003)

RAPHAEL KAPLINSKY, Globalization, Poverty and Inequality (Polity Press, 2005)

KARL POLANYI, The Great Transformation: The Political and Economic Origins of Our Time
(originally published 1944, 2001 Beacon Press edition with Foreword by Joseph Stiglitz and
introduction by Fred Block)

VICTOR BULMER-THOMAS, The Economic History of Latin America Since Independence,

[RECOMMENDED for Assignment 20]

Exam:
The take home exam will be available on the last day of the course and will be due at the Registrar’s
office on the last day of the exam period. Evaluation may rest in part on work done during the
course.
Part I: Introduction and History: What is “Development?”

ASSIGNMENT 1

A. MEASURING NATIONAL ECONOMIC DEVELOPMENT

Required: CYPER and DIETZ, Chapter 2: Measuring Economic Growth and Development, pp. 30-63

DM: DAVID KENNEDY, What is ‘Development?’ Issues That Have Divided the Profession


Recommended: MEIER: Chapter 1, pp. 3-14

ASSIGNMENT 2


Required:  
CYPER and DIETZ, Chapter 3: Development in Historical Perspective, pp. 73-103


DM: J. S. FURNIVAL, Progress and Welfare in Southeast Asia: A Comparison of Colonial Policy and Practice (1941), Contents, and pp. 3-84

Background:  


WALT ROSTOW, How it All Began: Origins of the Modern Economy (1975)
ASSIGNMENT 3

C. THE HISTORY OF DEVELOPMENT: THE INITIAL SITUATION

Required:

DM: ERIC WOLFF, Europe and the Peoples without History, (1982)
Chapter 11: The Movement of Commodities, pp. 310-353

VICTOR BULMER-THOMAS, Chapter 5: Export-led Growth and the Non-export Economy, pp. 117-151


Background:


**Assignment 4**

**A. Growth: Neo Classical and Keynesian Theories of Development**

**Required:**

Cypher and Dietz, *Chapter 4: Classical and Neoclassical Theories*, pp. 109-132, and *Chapter 5: Developmentalist Theories of Economic Development*, pp. 140-164

DM: David Kennedy, *Modest Interventionism: Key People and Key Concepts*


**Recommended:**


**Background:**


Walt Rostow, *Politics and Stages of Growth* (1971);

Gilbert Rist, *The History of Development: From Origins to Global Faith* (1997), pp. 80-103 (Bandung, the institutionalization of Rostow)


W. LEWIS, *Economic Development with Unlimited Supplies of Labor*, in Manchester School of Economic and Social Studies (1954)
ASSIGNMENT 5

B. HETERODOX ECONOMIC THEORIES OF DEVELOPMENT: THE LEFT, WORLD SYSTEMS, DEPENDENCY AND SELF RELIANCE

Required: CYPER and DIETZ, Chapter 6: Heterodox Theories of Economic Development, pp. 168-196


Background: GUNNAR MYRDAL, Economic Theory and Underdeveloped Regions (Harper Torchbooks, 1971)


FERNANDO HENRIQUE CARDOSO and ENZO FALETTO, Dependency and Development in Latin America (University of California Press, 1979) (translation by Marjory Mattingly Urquidi)

PETER EVANS, Dependent Development: The Alliance of Multinational, State and Local Capital in Brazil (Princeton University Press, 1979)


H.W. ARNDT, pp. 115-147 (radical viewpoint, the left)

ASSIGNMENT 6

C. NATIONAL IMPORT SUBSTITUTION INDUSTRIALIZATION: THE POLICY PROGRAM AND ITS POLITICS

Required:  
DM: ALICE AMSDEN, Statistical Table on ISI results

VICTOR BULMER-THOMAS, Chapter 9: Inward-looking Development in the Postwar Period, pp. 268-312

Recommended:  

CYPHER and DIETZ, Chapter 9: The Initial Structural Transformation: Initiating The Industrialization Process, pp. 271-303

Background:  
MAURICE GIRGIS, Industrialization and Trade Patterns in Egypt, pp. 5-53
D. THE LEGAL ELEMENT IN IMPORT SUBSTITUTION INDUSTRIALIZATION: THE ANTI-FORMALIST SOCIAL

Required:  
DAVID KENNEDY, 'The 'Rule of Law,' Political Choices, and Development Common Sense,' in TRUBEK and SANTOS, pp. 95-128

DUNCAN KENNEDY, Three Globalizations of Law and Legal Thought 1850-2000, in TRUBEK and SANTOS, pp. 19-73


Background:  

ROBERTO UNGER, Law and Modernization (1977)

LAWRENCE FRIEDMANN, Legal Culture and Social Development (1964)
Part III: Transition 1965-1980

ASSIGNMENT 8

A. ADJUSTING STRATEGY IN LIGHT OF DISAPPOINTMENTS AND PROBLEMS OF IMPLEMENTATION

Required: CYPHER and DIETZ, Chapter 10: Strategy Switching and Industrial Transformation, pp. 308-334


VICTOR BULMER THOMAS, Chapter 10 New Trade Strategies and Debt-Led Growth, pp. 313-352


ATUL KOHLI, State Directed Development: Political Power and Industrialization in the Global Periphery (Cambridge University Press, 2004)
ASSIGNMENT 9

B. DISAPPOINTMENTS, PROBLEMS OF IMPLEMENTATION, UNINTENDED CONSEQUENCES AND THE RISE OF CRITIQUE: PUBLIC CHOICE AND RENT-SEEKING ANALYTICS

Required:  
**MEIER:** Chapter 6, pp. 81-94


Background:  

**DEEPAK LAL,** *The Poverty of Development Economics* (1985)

ASSIGNMENT 10

C. ENGAGING A CHANGING INTERNATIONAL CONTEXT: THE SEARCH FOR
GLOBAL POLITICAL ALTERNATIVES, ENERGY SHOCK, DEBT CRISIS

Required:  
**CYPHER and DIETZ**, *Chapter 16: The Debt Problem and Development*, pp. 529-549


**VICTOR BULMER THOMAS**, *Chapter 11: Debt, Adjustment, and the Shift to a New Paradigm*, pp. 353-391

**DM**: Declaration on the Establishment of a New International Economic Order, adopted by the UN General Assembly on 1 May 1974

Background:  

WOLFGANG FRIEDMANN, *The Relevance of International Law to the Processes of Economic and Social Development*, 60 *ASIL Proceedings* 8 (1966)

MOHAMMED BADJAOUI, *Towards a New International Economic Order* (UNESCO 1979), Table of Contents, pp. 97-115

OSCAR SCHACHTER, *Dag Hammarskjold and the Relation of Law to Politics*, 56 *American Journal of International Law* 857 (1965)
Part IV. Economic Theories and Development: 1980-2000:
The Rise of the Washington Consensus

ASSIGNMENT 11

A. THE INTELLECTUAL FRAMEWORK FOR NEO-LIBERALISM AND THE
WASHINGTON CONSENSUS

Required:  
DM: WILHELM ROPKE, Economic Order and International Law, 86
Recueil des Cours 203-71 (1954) (excerpts)

DM: DAVID KENNEDY, Turning to Market Democracy: A Tale of Two

Background:  
JOHN JACKSON, The World Trade Organization: Constitution and
Jurisprudence (Routledge, 1998)

DAVID KENNEDY, The International Style in Postwar Law and Policy, 94
Utah Law Review 7 (1994)

DAN TARULLO, Beyond Normalcy in the Regulation of International Trade,

FINGER and WINTERS, What Can the WTO Do for Developing Countries,
with comment by Alan Hirsch, in ANNE KRUEGER (ed), The WTO as an
International Organization (1998), pp. 365-400

ANTONY ANGHIE, Imperialism, Sovereignty, and the Making of
International Law (Cambridge University Press, 2005), Chapter 2:
Finding the Peripheries: Colonialism in Nineteenth Century Law, pp. 32-114.

B. THE NATIONAL POLICY PROGRAM: EFFICIENCY, GETTING PRICES RIGHT
AND INTEGRATION INTO THE WORLD ECONOMY

Required:  
DM: TOM HEWITT, HAZEL JOHNSON and DAVE WELD, Neo Liberal
Theory, in Industrialization and Development (1992)

Recommended:  
CYPHIER and DIETZ, Chapter 17: International Institutional Linkages: The
IMF, the World Bank and Foreign Aid, pp. 555-597

DM: MEIER, Leading Issues in Economic Development (Oxford
ASSIGNMENT 12

C. THE LEGAL ELEMENT IN NATIONAL NEOLIBERAL POLICY MAKING: FORMALIZATION, STANDARDIZATION, PRIVATIZATION AND TRANSPARENCY

Required:

DAVID KENNEDY, The ‘Rule of Law,’ Political Choices and Development Common Sense, in TRUBEK and SANTOS, pp. 128-150

ALVARO SANTOS, World Bank’s Uses of the ‘Rule of Law’ Promise in Economic Development, in TRUBEK and SANTOS, pp. 253-300


Background:


DUNCAN KENNEDY, Hale and Foucault, in Sexy Dressing (1993)

PART V: AFTER NEO-LIBERALISM: THE CONSENSUS CHASTENED

ASSIGNMENT 13

A. SECOND THOUGHTS ABOUT MARKET SHOCK AND STRUCTURAL ADJUSTMENT: THE EMERGENCE OF CRITIQUE

Required:  
HA-JOON CHEN, *The Market, the State and Institutions in Economic Development* (excerpt concerning Neoliberal Reaction and its Limits), in *HA-JOON CHEN*, pp. 46-57


GABRIEL PALMA, *The ‘Three Routes’ to Financial Crisis: Chile, Mexico and Argentina [1]; Brazil [2]; and Korea, Malaysia and Thailand [3]*, in *HA-JOON CHEN*, pp. 347-377

Recommended:  
DM: CARLOS HEREDIA AND MARY PURCELL, *Structural Adjustment and the Polarization of Mexican Society*, in MANDER and GOLDSMITH (eds), *The Case Against the Global Economy and For a Turn Toward the Local* (Sierra Club Books, 1997), pp. 273-284

DM: WALDEN BELLO, *Structural Adjustment Programs: Success for Whom?*, in MANDER and GOLDSMITH (eds), *The Case Against the Global Economy and For a Turn Toward the Local* (Sierra Club Books, 1997), pp. 285-293

Background:  

ANDREW HARRISON SCHWARTZ, *THE POLITICS OF GREED: HOW PRIVATIZATION STRUCTURED POLITICS IN CENTRAL AND EASTERN EUROPE* (ROWAN & LITTLEFIELD, 2006)


B. The “NEW DEVELOPMENT ECONOMICS:” MARKET FAILURES, PATH DEPENDENCE AND INSTITUTIONS

Required:  
MEIER: Chapter 7: Modern Growth Theory, pp. 95-117, and Chapter 8: The New Development Economics, pp. 118-128


Recommended:  


Background:  


DANI RODRIK, Industrial Policy for the Twenty-First Century (September 2004)

Bringing the State Back in, edited by Peter Evans, Dietrich Rueschemeyer and Theda Skocpol (Cambridge Press, 1985)

PETER EVANS, Embedded Autonomy: States and Industrial Transformation (Princeton; 1995)
ASSIGNMENT 15

C. “SOCIAL DEVELOPMENT,” HUMAN RIGHTS, DEMOCRACY AND “GOOD GOVERNANCE” AS STRATEGIES OF DEVELOPMENT

Required:


MEIER, Chapter 9: Culture, Social Capital, Institutions, pp. 129-143

CYPHER and DIETZ, Chapter 7: The State as a Potential Agent of Transformation: From Neo-liberalism to Embedded Autonomy, pp. 203-238


Recommended:

CYPHER and DIETZ, Chapter 12: Population, Education and Human Capital, pp. 351-376, and pp. 522-587 (foreign aid)

Background:

AMARTYA SEN, Resources, Values and Development (Harvard University Press, 1984)

DAVID KINLEG, CIVILIZING GLOBALIZATION: HUMAN RIGHTS IN THE GLOBAL ECONOMY (CAMBRIDGE PRESS, 2009)


MUSHTAQ KHAN “GOVERNANCE, ECONOMIC GROWTH AND DEVELOPMENT SINCE THE 1960s” IN GROWTH DIVERGENCES: EXPLAINING DIFFERENCES IN ECONOMIC PERFORMANCE, JOSE
AANTONIO OCAMPO, JOMO K.S., AND ROB VOS, EDITORS (ZED BOOKS, 2007) PP 285-323

ASSIGNMENT 16

D. THE NEW DEVELOPMENT ECONOMICS AND TRANSNATIONAL STRATEGIES

Required:

**RAPHAEL KAPLINSKY**, *Chapter 5: The Global Dispersion of Production – Three Key Sectors*, pp. 122-159


**MEIER**, *Chapter 11: Global Trade Issues*, pp. 161-179

Recommended:


**DM**: **DANI RODRIK**, *How to Make the Trade Regime Work for Development* (Manuscript, February 2004)

**CYPHER** and **DIETZ**, *Chapter 14: Transnational Corporations and Economic Development*, pp. 403-439


**DEEPAK NAYYAR**, *Globalization and Development*, in **HA-JOON CHANG**, pp. 61-82

Background:


JOSEPH STIGLITZ and ANDREW CHARLTON, Fair Trade for All: How Trade Can Promote Development (Oxford University Press, 2005)
E. HETEROGENEITY REVISITED: POVERTY AND THE GLOBAL ECONOMY, OR RENTS AND THE POTENTIAL FOR LOCAL, NATIONAL OR INTERNATIONAL STRATEGIES TO THE LEFT OF STIGLITZ, RODRIK OR SEN

Required:  

DM: Roberto Unger, What Should The Left Propose? (2005), The Developing Countries: Growth with Inclusion, pp. 64-82, and Globalization and What To Do About It, pp. 133-148

DM: Roberto Unger, Free Trade Reimagined: The World Division of Labor and the Method of Economics (Princeton University Press, 2007), pp. 77-109


DM: Gustavo Esteva, Regenerating People’s Space, 198 Alternatives XII (1987), pp. 125-152

Background:  


Gustavo Esteva and Madhu Suri Prakash, Grassroots Postmodernism: Remaking the Soil of Cultures (1998)

Mander and Goldsmith (eds), The Case Against the Global Economy and For a Turn Toward the Local (1996), pp. 393-514 (various authors on self-reliant community based development strategies),

F. THE LEGAL ELEMENTS IN POST-WASHINGTON CONSENSUS PROGRAMS

Required:


DAVID KENNEDY, *The ‘Rule of Law,’ Political Choices and Development Common Sense*, in TRUBEK and SANTOS, pp. 150-173

KERRY RITTICH, *Second Generation Reforms and the Incorporation of the Social*, in TRUBEK and SANTOS, pp. 203-252

Recommended:


**KARL POLANYI,** Chapter 7: Speenhamland 1795, Chapter 8: Antecedents and Consequences, Chapter 9: Pauperism and Utopia, and Chapter 10: Political Economy and the Discovery of Society (in the 2001 Beacon Press edition, this is pp. 81-135)

Background:


FRANCIS BOTCHWAY, *Good Governance: The Old, the New, the Principle and the Elements*, XII:2 *Florida Journal of International Law* 159 (Spring 2001)


PART VI: CASE STUDIES

ASSIGNMENT 19

A. PUTTING THE STORY TOGETHER AND SETTING UP THE CASE STUDIES


DM: RICARDO LAGOS AND OSVALDO ROSALES, “Globalization in Development Options” (draft 2011)


ASSIGNMENT 20

B. NATIONAL DEVELOPMENT: LAW AND DEVELOPMENT IN CHINA

Required:


DM: JOSEPH STIGLITZ, Remarks on China’s 11th Five-Year Plan: Another Major Step in China’s Transition to a Market Economy (DRAFT, 2009)


Recommended:


DM: ZHIYUAN CUI, *Whither China? The Discourse on Property Rights in the Chinese Reform Context*

RAPHAEL KAPLINSKY, pp. 205-231 (China is not just a Competitor in External Markets)


Background:


ASSIGNMENT 21

C. SECTORAL DEVELOPMENT: AGRICULTURE

Required:   TERRY BYRES, Agriculture and Development: The Dominant Orthodoxy and an Alternative View, in HA-JOON CHANG, pp. 235-254


CYPHER and DIETZ, Chapter 11: Agriculture and Development, pp. 341-385


ASSIGNMENT 22

D. SECTORAL DEVELOPMENT: URBAN POLICY, LAW AND DEVELOPMENT


**Recommended:**


