LAW AND DEVELOPMENT
PROFESSOR DAVID KENNEDY
FALL 2010

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.


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


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

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


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: CYPHER 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

Required: CYPHER 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


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

C. THE HISTORY OF DEVELOPMENT: THE INITIAL SITUATION

Required:


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:** Meier: *Chapter 2: The Heritage of Classical Growth Economics*, pp. 15-40; *Chapter 4: Early Development Economics 1: Analytics*, pp. 53-67; and *Chapter 5: Early Development Economics 2: Historical Perspectives*, pp. 68-80


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. HETERO DOX ECONOMIC THEORIES OF DEVELOPMENT: THE LEFT, WORLD SYSTEMS, DEPENDENCY AND SELF RELIANCE

Required: 

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

Required: CYpher and Dietz, Chapter 9: The Initial Structural Transformation: Initiating The Industrialization Process, pp. 271-303

DM: Alice Amsden, Statistical Table on ISI results

Victor Bulmer-Thomas, Chapter 9: Inward-looking Development in the Postwar Period, pp. 268-312


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: CYPFER 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


**DM:** DEEPAK LAL, *The Dirigiste Dogma*, in The Poverty of Development Economics (1985), pp. 5-16

**Background:**  


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:  
CYPHER and DIETZ, Chapter 15: Microeconomic Equilibrium: the External Balance, pp. 502-523

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)

ASSIGNMENT 11

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

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


Recommended:

Background:

DAN TARULLO, Beyond Normalcy in the Regulation of International Trade, 100:3 Harvard Law Review 546 (1987)

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


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

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:


PART V: AFTER NEO-LIBERALISM: THE CONSENSUS CHASTENED

ASSIGNMENT 13

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

Required:

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

DM: JOSEPH STIGLITZ, Whither Reform? Ten Years of Transition, (World Bank Annual Bank Conference on Development Economics: Keynote Address, April 28-30, 1999) (Stiglitz was Chief Economist for the Bank in the late 1990s)

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

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

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:


ASSIGNMENT 14

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

Required:


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


Recommended:

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


Background:

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


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

**HA-JOON CHANG**, *Trade and Industrial Policy Issues*, in **HA-JOON CHANG**, pp. 257-276


**DM**: **NANCY BIRDSALL, DANI RODRIK, and ARVIND SUBRAMANIAN**, *How to Help Poor Countries*, 84:4 *Foreign Affairs* 136 (2005)

**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:


ASSIGNMENT 17

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:

RAPHAEL KAPLINSKY, Chapter 3: Getting it Right: Generating and
Appropriating Rents, pp. 53-85, Chapter 4: Managing Innovation and
Connecting to Final Markets, pp. 86-121, Chapter 6: How Does It All Add
Up? Caught Between a Rock and a Hard Place, pp. 153-195, Chapter 8: So
What?, pp. 232-257

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: ARTURO ESCOBAR, Chapter 6: Conclusion: Imagining a Post
Development Era, in Encountering Development: The Making and
212-226

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

Background:

RAHNEMA and BAWTREE (eds), The Post Development Reader,
(1997), perhaps particularly HASSAN ZAOUAL, The Economy and
Symbolic Sites of Africa, pp. 30-39; particularly ESCOBAR, The Making
and the Unmaking of the Third World through Development, pp. 85-93, IVAN
IL LICH, Development as Planned Poverty, pp. 94-102; SUSAN GEORGE,
How the Poor Develop the Rich, pp. 207-213

FREDERIQUE APFFEL-MARGLIN (ed), with PRATEC, The Spirit of
Regeneration: Andean Culture Confronting Western Notions of
Development (1998)

GUSTAVO ESTEVA and MADHU SURI PRAKESH, 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),

ASSIGNMENT 18

F. THE LEGAL ELEMENTS IN POST-WASHINGTON CONSENSUS PROGRAMS


David Kennedy, *The ‘Rule of Law,’ Political Choices and Development Common Sense*, in Trubeck and Santos, pp. 150-173

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)


Barbara Harriss-White, *Institutions and Economic Development in Historical Perspective*, in Ha-Joon Chang, pp. 481-498


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


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:


C. SECTORAL DEVELOPMENT: AGRICULTURE

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


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


Recommended:


D. SECTORAL DEVELOPMENT: URBAN POLICY, LAW AND DEVELOPMENT

Required:


Recommended:


