COURSE REQUIREMENTS AND GRADING

You are responsible for all material covered in assigned readings, lectures, and discussion sessions. Your grade for the course will be determined by the weighted average of your grades for participation in discussion sessions, three short written assignments, the in-class midterm exam, and the final exam. The weights will be:

<table>
<thead>
<tr>
<th>Component</th>
<th>Weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Participation in discussion sessions</td>
<td>10%</td>
</tr>
<tr>
<td>Short written assignments</td>
<td>24% (8% per assignment)</td>
</tr>
<tr>
<td>Midterm exam</td>
<td>26%</td>
</tr>
<tr>
<td>Final exam</td>
<td>40%</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
</tr>
</tbody>
</table>

**Discussion section**

You must attend all discussion section meetings and participate actively. If you must miss a class meeting, please notify your GSI as soon as you know that and indicate the cause of your absence.

**Short written assignments**

You will be required to turn in a short, several-page essay at the end of the third, sixth, and twelfth weeks of the semester. A specific topic will be assigned for each essay, involving a combination of synthesis and analysis related to particular facts, arguments, or problems addressed in the readings and/or lectures.

**Midterm and final examinations**

The midterm and final examinations will assess your knowledge of and analyze facts, dilemmas, arguments, and interpretations covered in the course. Both will employ a combination of
multiple-choice, fill-in-the-blank, short essay, and similar formats. The final examination will also include one longer essay. The midterm exam will take place in the first class of the ninth week of the semester. The final exam will cover material from throughout the term, although it will test material from the weeks after the midterm more heavily.

READINGS

There is one required book for the course, which will be available at the ASUC Bookstore and on reserve at Moffitt Library:


Many of the other readings are available to the public or through the UC Berkeley libraries in electronic form. These will be posted on or linked to the course website to minimize their cost to you (i.e., saving copying charges and royalty fees). Other readings will be in a course packet available from Copy Central.

SYLLABUS

<table>
<thead>
<tr>
<th>Week</th>
<th>Topics and reading assignments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td><strong>Course overview, fundamental concepts, and basic vocabulary</strong></td>
</tr>
<tr>
<td></td>
<td>Topics: Introduction to course. Overview of concepts of development and strategies for promoting development. Basic background on of types of law (formal, informal, customary/traditional) and basic elements of formal legal systems.</td>
</tr>
</tbody>
</table>
2. Law and the rise of the centralized state

Topics: Introduction to functions of law and to legal change, including resistance. Law as a tool of power and means to (try to) control social, political, and economic life. Colonial uses of law.

JAMES SCOTT, SEEING LIKE A STATE 33-52 (1998).


II. Top-Down Models of Law and Development

3. Becoming “modern”

First short written assignment due.


JAMES GARDNER, LEGAL IMPERIALISM 29-34 (1986) (“Legal Transfer” section from Ch. 2: “The Development Decade and Legal Transfer”).

### 4. The first Law and Development movement: Vision and methods

Topics: Linear model of economic growth coupled with political and social “modernization.” Law as a tool of state-led development. Legal change driven by outside development agencies and foundations (e.g., US Agency for International Development and Ford Foundation), primarily through rewriting of legal codes, changes in legal education, establishment of legal aid programs.


JAMES GARDNER, LEGAL IMPERIALISM 191-210 (1986) (Ch. 8: “The Reform of Legal Education in Democratic Colombia”).

### 5. The first Law and Development movement: Disenchantment and critique

Topics: Critiques of the vision and execution of the first Law and Development movement, including cooptation by entrenched elites, gaps between law as written and as enforced, and lack of understanding of context.


JAMES GARDNER, LEGAL IMPERIALISM 3-26 (1986).


6. **Neoliberal growth and the second Law and Development movement**

Topics: Neoliberal economic model – growth driven by market, with minimal state involvement. Law as a framework for private transactions and restraint on state intervention. Legal change through transplantation, with a focus on private law.


---

7. **Good governance and the rule of law: Vision and methods**

Topics: Major institutions’ turn to “good governance” and the “rule of law” as key influences on economic growth, with many programs aiming to achieve distributional and social development goals as well. The World Bank as a key actor in law and development.


8. **Good governance and the rule of law: Limitations and challenges**

Topic of first two classes of week: Limits and criticisms of good governance approach. Failure to adapt to national contexts. Technocratic approach ignores distributional consequences of change, role of power, and resistance from vested interests. Focus on law as written and ideology of legal institutions rather than their functioning in practice. Unclear causal relationship between legal change and economic development.


---

9. **Midterm exam**

(first class of week)
### III. Bottom-Up Models of Law and Development

#### 9. Holistic conceptions of development

Topics: United Nations Development Program Human Development concept. Development as full participation in social and political life. Freedom as end of development versus as means to a narrower version of development.

**UNITED NATIONS DEVELOPMENT PROGRAM, 1990 HUMAN DEVELOPMENT REPORT 9-16 (1990) (Ch. 1: “Defining and Measuring Human Development”).**


#### 10. Rights-based development

Topics: Using human rights law and human rights approaches to shape development initiatives. Integrating agency and self-determination of beneficiaries (e.g., the poor) into development efforts. Adoption of rights-based approach by large development bureaucracies, including United Nations and large international NGOs. Tensions between rights-based approach and history and culture of development organizations.


Seyhan Aydinligil, *Gender policy in Turkey, in AN INTRODUCTION TO THE HUMAN DEVELOPMENT AND CAPABILITY APPROACH: FREEDOM AND AGENCY* 304-11 (Séverine Deneulin with Lila Shahani eds., 2009).
11. **Combating poverty by formalizing legal relationships**

Topics: Informal rules and practices as obstacles to economic development and poverty reduction. Formalization of rights and access to formal dispute resolution mechanisms as development strategy. Critiques of strategy. Case study of Organization of American States “right to identity” (universal birth registration) project.

**HERNANDO DE SOTO, THE MYSTERY OF CAPITAL 1-13 (2000).**

**COMMISSION ON LEGAL EMPOWERMENT OF THE POOR, 1 MAKING THE LAW WORK FOR EVERYONE 13-22, 25-40 (2009).**

Edward Robbins, *Formalization of Land and Housing Tenure to Empower the Poor: Simple Nostrum or Complex Challenge?*, in *RIGHTS AND LEGAL EMPOWERMENT IN ERADICATING POVERTY* 175-99 (Dan Banik ed., 2008).


12. **Legal empowerment of the disadvantaged**

Topics: Creative use of law to expand economic, social, and political opportunities of people disadvantaged by, for example, poverty or gender discrimination. Use of strategies integrating law, politics, education, and other vehicles for change. Maximizing role of the disadvantaged themselves in design and execution of social change initiatives. Case study of Timap for Justice, Sierra Leone.


**AMARTYA SEN, DEVELOPMENT AS FREEDOM** 146-59 (1999) (Ch. 6: “The Importance of Democracy”).


Possible guest lecturer: Stephen Golub, Consultant, United Nations Development Program.
13. **Challenging customary law**

Topics for this week and first two classes of next week: Overview of customary legal systems and processes. Common objections to many customary legal systems (e.g., gender discrimination). Strategies for “reform,” from replacement to engagement. Ethical dilemmas (e.g., cultural imperialism) and difficulties in implementation of change strategies.


---

14. **Challenging customary law (continued – first two classes of week)**

Topics for first two classes: See previous week.


**Concluding lecture (last class of week)**


**SALLY FALK MOORE, LAW AS PROCESS** 1-13 (1978).