

**Law and Development
Legal Studies 158**

Spring 2013

Lecture: Monday, Wednesday, Friday, 2-3 (160 Kroeber) 4 units
Sections: Monday 3-4 (205 Dwinelle), Wednesday 12-1 (140 Barrows),
Wednesday 4-5 (140 Barrows), Friday 12-1 (106 Wheeler)

Professor Jamie O'Connell
444 North Addition (School of Law)
joconnell@law.berkeley.edu

Office hours: Tuesdays, 3:30-5:00,
Wednesdays 3:15-3:45 (Sign up on sheet
linked from "Resources:Administrative"
folder on bSpace.)

Assistant: Cynthia Palmerin
325A-15 Boalt Hall (School of Law)
cpalmerin@law.berkeley.edu

Graduate Student Instructors:

Ms. Tal Niv
tal.niv@gmail.com

Mr. Diego Pardow
dpardow@gmail.com

COURSE DESCRIPTION

Focusing on developing countries, this course studies the relationship between law and development. Efforts to change law in order to promote development are its core concern. These efforts have been conducted for centuries by national and local leaders. In the last twenty years, however, international organizations, foreign aid agencies, and local and international non-governmental organizations have become extraordinarily active, spending hundreds of millions of dollars every year.

The conceptions of development that underlie those efforts are diverse – development may be seen as growth or improvement in, among other things, income, education, health, and human rights. We will take a similarly expansive view of "law," recognizing that in many contexts it blurs into politics, governance, and social custom. We will devote roughly equal time to activities that attempt to affect law at elite levels – for example, by rewriting Japan's national legal codes – and those that address its operation at the grassroots – for example, by influencing how traditional chiefs resolve local disputes in Sierra Leone.

Analyzing these initiatives will involve surveying theories of the role of law in development. We also will consider key tensions between theory and practice that researchers and development practitioners have identified. The key actors involved in law-related development work will become familiar, and we will see specifically what they do. The clashes of interests that arise in development work will loom large in the course. Finally, by the end of the term, we will understand how practitioners' and analysts' views of the relationship between development and law have changed, especially over the last fifty years.

COURSE REQUIREMENTS

Grading

You are responsible for all material covered in assigned readings, lectures, and discussion sessions. Your grade for the course will be determined as follows:

Lecture: attendance and occasional participation	10%
Discussion section	20
Short written assignments for lecture (due Friday, February 15 and Monday, April 15)	10
Midterm exam (Wednesday, March 13, in class)	20
Final exam (Tuesday, May 14, 11:30 a.m. – 2:30 p.m.)	<u>40</u>
	100%

Readings

You are responsible for reading all assigned readings *before* the class for which they are listed.

The course reader is available from Copy Central on Bancroft Way. In order to minimize the cost of the reader, all readings that are available to you free, either through the UC Berkeley libraries or as a member of the public, are posted on or linked to from bSpace.

The book at the ASUC Bookstore (Thomas Carothers, ed., *Promoting the Rule of Law Abroad: In Search of Knowledge* (2006)) **is NOT required**. It was previously required, and does contain plenty of interesting material that you may find valuable, but we will not be reading enough from it to justify requiring you to purchase it.

The easiest way for you to figure out what to read for each class is to check the “Resources” section of the course website on bSpace. All readings for each session are listed in a folder for that session. (Readings for the first few weeks of the semester are posted already; we will post the rest well in advance of the week for which they are assigned.) Readings in the reader will be flagged as [IN READER]”, and the rest can be accessed electronically from the site. Reading assignments may occasionally be modified from what is listed below, and any such modifications will be reflected on bSpace.

Attendance and participation in lecture

We will take attendance at lectures. If necessary, you may miss up to three lectures without penalty. For each additional absence, your lecture attendance and participation grade (10% of your course grade) will be reduced by one percentage point.

There will be some opportunities for participation during lecture sessions – e.g., collective discussion, question and answer time, participatory exercises. One or two points – depending on how many opportunities arise – of your final grade (out of the 10% for lecture attendance and participation) will be determined by how much and how thoughtfully you engage these opportunities.

Discussion section

Detail on requirements will be distributed in section.

Short written assignments

Short essays will be due on Friday, February 15 and Monday, April 15. A specific topic will be assigned for each, involving a combination of synthesis and analysis related to particular facts, arguments, or problems addressed in the readings and lectures.

Midterm and final exams

The midterm exam will be given in class on Wednesday, March 13. Lecture on Monday, March 11 will be devoted to an informal, optional review session.

The final exam will be held Tuesday, May 14, from 11:30 to 2:30 p.m. One or more review sessions will be scheduled during RRR week.

The midterm and final exams will assess your knowledge of and ability to analyze facts, dilemmas, arguments, and interpretations covered in the course. They may employ multiple-choice, fill-in-the-blank, short essay, or other formats; the final exam may include one or more longer essays. The final exam will cover material from the entire term, but will emphasize material from the weeks after the midterm.

POLICIES

Accommodations: disability and religion

In accordance with University policy, the Americans with Disabilities Act (ADA), the California Education Code, and the inclusive social vision underlying them, the requirements of this course will be adapted to meet the particular needs of the students in it. Practically speaking, this means two things:

- We will provide the accommodations specified by the Disabled Students Program (DSP) on an individual-by-individual basis. *If you need accommodation, please provide a copy of your DSP letter to your GSI, if at all possible during the first two weeks of the semester.*
- If any student's religious beliefs forbid him or her to take an examination on the scheduled date, then we will permit him or her to take the examination on an alternative date, provided that would not impose an undue hardship that could not reasonable be avoided. *If your religious beliefs forbid you to take either the mid-term or final exam on the scheduled date, please notify Professor O'Connell and your GSI, if at all possible during the first two weeks of the semester.*

Conflicts with extracurricular activities (including athletics)

If you participate in any extracurricular activity that may interfere with their ability to fulfill the requirements of this course – such as ones involving travel – you should review this syllabus promptly and carefully. Under University policy, you are responsible for notifying Professor O'Connell and your GSI in writing of any potential conflicts and recommending a solution *by the second week of the semester*. Please note that an earlier deadline or date of examination may be the most practicable solution. It will be your responsibility to inform yourself about material you miss because of any absence.

Academic integrity

Nearly all of you always work to the highest standards of academic integrity. Only a few students cheat or commit plagiarism, but on a large campus, many incidents occur every year. Misrepresenting others' work as one's own undermines one's own education and development, corrodes trust within the UC Berkeley community, risks reducing the value of a UC Berkeley degree, and dishonors a great institution of which we all can be proud to be part. Both UC Berkeley generally and the instructors of this course are very tough on these offenses.

Violations of principles of academic integrity can be caused by ignorance or bad faith. While inadvertent violations may be less wrong in a moral sense, it can be very difficult to distinguish them from ones caused by bad faith. Prudence, as well as principle, should motivate you to know the applicable standards and to observe them scrupulously.

The UC Berkeley Center for Student Conduct and Community Standards provides the following examples of cheating and plagiarism, but notes that they are "not exhaustive." (See <http://campuslife.berkeley.edu/conduct/integrity/definition>.)

Cheating

Cheating is defined as fraud, deceit, or dishonesty in an academic assignment, or using or attempting to use materials, or assisting others in using materials that are prohibited or inappropriate in the context of the academic assignment in question, such as:

- Copying or attempting to copy from others during an exam or on an assignment.
- Communicating answers with another person during an exam.
- Preprogramming a calculator to contain answers or other unauthorized information for exams.
- Using unauthorized materials, prepared answers, written notes, or concealed information during an exam.
- Allowing others to do an assignment or portion of an assignment for you, including the use of a commercial term-paper service.
- Submission of the same assignment for more than one course without prior approval of all the instructors involved.
- Collaborating on an exam or assignment with any other person without prior approval from the instructor.
- Taking an exam for another person or having someone take an exam for you.

Plagiarism

Plagiarism is defined as use of intellectual material produced by another person without acknowledging its source, for example:

- Wholesale copying of passages from works of others into your homework, essay, term paper, or dissertation without acknowledgment.
- Use of the views, opinions, or insights of another without acknowledgment.
- Paraphrasing of another person's characteristic or original phraseology, metaphor, or other literary device without acknowledgment.

Any time you use others' words or ideas in your work for this course, you must properly attribute them. That means fully identifying the original source and the extent of your use of words or ideas from it, usually using a footnote. *The format of the source does not affect this requirement*

– it applies to material taken from books, academic journal articles, popular magazines, campus publications, websites, emails, blog posts, even tweets and text messages.

Do not be shy if you feel uncertain about what the instructors feel academic honesty requires, generally or in a specific case: the smart thing to do is ask.

Electronic device use

You may use a laptop or other electronic device to take notes during lecture, but you must turn off all wireless communication from the device – wifi, cellular data, etc. (Essentially, this is “airplane mode.”) While accessing online resources or communicating electronically with others during class may feel like it increases your efficiency, it is distracting to your colleagues. Furthermore, in the experience of all three instructors, the benefits of connecting during class or meetings – saving time by multitasking, clarifying a lecturer’s point by instant messaging, gratifying one’s wandering mind by reading Perez Hilton or ESPN – are much smaller than they seem in the moment, and the costs – missing particular points, losing the thread of a complex argument, being put on the spot when called on – are much greater. Finally, jumping from one task to another and back both undermines deep thinking and is hugely inefficient. (Don’t ask how many times I checked email while writing this page.)

This may go without saying, but you may not send or view text messages or otherwise communicate with the help of a phone or other electronic device during class.

ADDITIONAL RESOURCES

The websites of the World Bank (www.worldbank.org), its Justice for the Poor program (<http://go.worldbank.org/SMIKY7M6O0>), the United Nations Development Program (www.undp.org), the American Bar Association’s Rule of Law Initiative (<http://apps.americanbar.org/rol/>) and many other intergovernmental and nongovernmental organizations offer resources for learning more about development in general and law and development in particular. You will learn most from these if you approach them with both an open mind and a critical eye.

If you are statistically, or graphically, minded, Google Public Data Explorer (<http://www.google.com/publicdata/directory>) allows you to track countries’ development over time and compare them to each other, based on a wide range of statistics. The World Bank’s World Development Indicators, United Nations Development Program’s Human Development Indicators, and OECD Factbook may be especially interesting.

READINGS

I. Introduction

- 1. Course overview, fundamental concepts, and basic vocabulary** Topics: Introduction to course. Overview of concepts of development and strategies for promoting development. Structure of development industry. Basic elements of formal legal systems.

Read for Weds., Jan 23:

Weds., Jan. 23

H.W. ARNDT, *ECONOMIC DEVELOPMENT: THE HISTORY OF AN IDEA* (1989).

Fri, Jan. 25

Read: 1-7. [reader, online]

Read for Fri., Jan. 25:

United Nations Development Program, “About Human Development” (n.d.), at <http://hdr.undp.org/en/humandev/>. [online]

AMARTYA SEN, *DEVELOPMENT AS FREEDOM* (1999). Read: 3-11. [online]

United Nations Development Program, “Human Development Index (HDI)” (n.d.), at <http://hdr.undp.org/en/statistics/hdi/>. Read: From top of page to just before “To learn more,” then skip to “Highlighting uneven development: comparing relative levels of HDI and per capita income” and read that section. You can stop reading before the FAQ. Make sure you understand the diagram, “Components of the Human Development Index”. [online]

United Nations Development Program, “What does the Human Development Index (HDI) tell us?” (n.d.), at <http://hdr.undp.org/en/statistics/gni/>. Optional: Choose a few countries that interest you and see how their GNI/capita ranking – development measured purely by average income – compares to their HDI ranking: compared to other countries, do they convert their income into more human development (HDI ranking is higher than GNI ranking) or less? Are you surprised by any of the results? [online]

JOHN VENTURA, *LAW FOR DUMMIES* (1996). Read: 9-15. [reader and online]

ARJAN DE HAAN, *HOW THE AID INDUSTRY WORKS: AN INTRODUCTION TO INTERNATIONAL DEVELOPMENT* (2009). Read: 63, 69-83. [reader and online]

2. Colonial rule

Topics: Law as a tool of power, for controlling social, political, and economic life. Colonial uses of law. Resistance by those law attempts to control.

Mon., Jan. 28

Weds., Jan. 30

Fri., Feb. 1

Read for Mon., Jan. 28:

Jörg Fisch, *Law as a Means and as an End: Some Remarks on the Function of European and Non-European Law in the Process of European Expansion*, in *EUROPEAN EXPANSION AND LAW: THE ENCOUNTER OF EUROPEAN AND INDIGENOUS LAW IN 19TH- AND 20TH-CENTURY AFRICA AND ASIA* 15 (W.J. Mommsen & J.A. De Moor eds., 1992). Read: 15-17, 20-36. [reader]

Read for Weds., Jan. 30:

MAHMOOD MAMDANI, *CITIZEN AND SUBJECT: CONTEMPORARY AFRICA AND THE LEGACY OF LATE COLONIALISM* (1996). Read: 109-126. [reader]

Read for Fri., Feb. 1:

JAMES C. SCOTT, *WEAPONS OF THE WEAK: EVERYDAY FORMS OF PEASANT RESISTANCE* (1985). Read: 28-37. [reader]

Johnson v. M'Intosh, 21 U.S. 543 (1823). Read: Excerpt. [online]

II. The Evolution (?) of Law and Development

3. Becoming “modern”

Mon., Feb. 4

Weds., Feb. 6

Fri., Feb. 8

Topics: Case study of transformation of Japanese legal system during the Meiji Restoration. “Modernization” of legal norms and institutions by local leaders based on unidirectional ideas of progress in law, government, economic activity, and social life. Transplantation and adaptation of foreign models. Interplay of distributions of power and development processes.

Read for Mon., Feb. 4:

Handout with a few aids. [reader]

CARL F. GOODMAN, *THE RULE OF LAW IN JAPAN: A COMPARATIVE ANALYSIS* (2d ed. 2008). Read: 20-21. [reader]

KENNETH G. HENSHALL, *A HISTORY OF JAPAN: FROM STONE AGE TO SUPERPOWER* (2d ed. 2004). Read: Excerpts from 73-85, 96-100. [reader]

Read for Weds., Feb. 6:

Daniel Berkowitz et al., *The Transplant Effect*, 51 *AM. J. COMP. L.* 163 (2003). Read: 172-73. [online]

Inga Markovits, *Exporting Law Reform – But Will It Travel?*, 37 *CORN. INT’L L.J.* 95 (2004). Read: 95-96. [online]

MERYLL DEAN, *JAPANESE LEGAL SYSTEM* (2d ed. 2002). Read: 61-69. [reader]

JOHN OWEN HALEY, *AUTHORITY WITHOUT POWER: LAW AND THE JAPANESE PARADOX* (1991). Read: 67-75. [reader]

TURAN KAYAOĞLU, *LEGAL IMPERIALISM: SOVEREIGNTY AND EXTRATERRITORIALITY IN JAPAN, THE OTTOMAN EMPIRE, AND CHINA* (2010). Read: 92-98. [reader]

KENNETH G. HENSHALL, *A HISTORY OF JAPAN: FROM STONE AGE TO SUPERPOWER* (2d ed. 2004). Read: Excerpts from p. 92. Recommended: 102-105. [reader]

Read for Fri., Feb. 8:

KENNETH G. HENSHALL, *A HISTORY OF JAPAN: FROM STONE AGE TO SUPERPOWER* (2d ed. 2004). Read: Excerpts from 86-91. [reader]

M. William Steele, *From Custom to Right: The Politicization of the Village in Early Meiji Japan*, 23 *J. MOD. ASIAN STUD.* 729 (1989). [online]

4. The Law and Development Movement: Vision and activities

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 (such as Ford Foundation).

Read for Mon., Feb. 11:

Mon., Feb. 11

WALTER ROSTOW, *THE STAGES OF ECONOMIC GROWTH: A NON-COMMUNIST MANIFESTO* (1960). Read: Graphic facing 1 and 4-12. [reader]

Weds., Feb. 13

William O. Douglas, *Lawyers of the Peace Corps*, 48 A.B.A. J. 909 (1962). Read: 909-910. [online]

Fri., Feb. 15

David M. Trubek, *Toward a Social Theory of Law: An Essay on the Study of Law and Development*, 82 YALE L.J. 1 (1972). Read: 2-10. [online]

Mon., Feb. 18: NO CLASS (President’s Day)

Read for Weds., Feb. 13:

Weds., Feb. 20

JAMES GARDNER, *LEGAL IMPERIALISM* (1986). Read: 6-8, 12-15, 35-52, 215-218. [reader]

FRI., FEB 15: FIRST WRITING ASSIGNMENT DUE

Read for Fri., Feb. 15:

Keith S. Rosenn, *The Reform of Legal Education in Brazil*, 21 J. LEGAL EDUC. 251 (1968-69). Read: Excerpts. [online]

David M. Trubek, “Reforming Legal Education in Brazil: From the Ceped Experiment to the Law Schools at the Getulio Vargas Foundation,” Univ. of Wisconsin Legal Studies Research Paper No. 1180 (n.d., approx. 2011). Read: 4-5. [online]

Read for Weds., Feb. 20:

Review readings on reform of Brazilian legal education from previous class.

5. The Law and Development Movement: Disappointment, critique, and decline

Topics: Critiques of the vision and execution of the Law and Development Movement. End of first Law and Development movement. Lessons – learned?

Read for Fri., Feb. 22:

Fri., Feb. 22

David M. Trubek & Mark Galanter, *Scholars in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies in the United States*, 1974 WIS. L. REV. 1062 (1974). Read: 1070-1074, 1075-1076, 1078-1084, 1088-1093. [online]

Mon., Feb. 25

JAMES GARDNER, *LEGAL IMPERIALISM* (1986). Read: 8-12, 239-246. [reader]

Read for Mon., Feb. 25:

JAMES GARDNER, *LEGAL IMPERIALISM* (1986). Read: 231-235, 282-88. [reader]

Brian Z. Tamanaha, *The Lessons of Law-and-Development Studies*, 89 AM. J. INT’L L. 470 (1995). Read: 473-476, 483-485. [online]

6. Neoliberal growth and the revival of law and development

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. Foreign technical experts as key actors. Example of neoliberal overhaul of national intellectual property laws.

Weds., Feb. 27

Fri., Mar. 1

Mon., Mar. 4

Weds., Mar. 6

Read for Weds., Feb. 27:

Nancy Birdsall, Augusto de la Torre & Felipe Valencia Caicedo, *The Washington Consensus: Assessing a Damaged Brand*, WORLD BANK POLICY RESEARCH WORKING PAPER No. 5316, May 2010. Read: Excerpt. [online]

World Bank, “About Us,” <http://www.worldbank.org/about>. [online]

Tor Krevor, *The Legal Turn in Late Development Theory: The Rule of Law and the World Bank’s Development Model*, 52 HARV. J. INT’L L. 287 (2011). Read: 296-99. [online]

Read quickly as general background: Constitutional Rights Foundation, *Life Under Communism in Eastern Europe*, 19 BILL OF RIGHTS IN ACTION (2002). [online]

Read for Fri., Mar. 1:

Talbot “Sandy” D’Alemberte, *Our Eastern European Challenge: Providing Technical Assistance to Struggling Democracies*, ABA J., Mar. 1999, at 8. [online]

JANINE R. WEDEL, COLLISION AND COLLUSION: THE STRANGE CASE OF WESTERN AID TO EASTERN EUROPE (2001). Read: 15-20. [reader]

Thomas Carothers, *The Rule of Law Revival*, in PROMOTING THE RULE OF LAW ABROAD: IN SEARCH OF KNOWLEDGE 3 (Thomas Carothers ed., 2006). Read: 8-10 *only* (“The Global Picture”). [online]

Thomas W. Waelde & James L. Gunderson, *Legislative Reform in Transition Economies, Western Transplants – a Short-Cut to Social Market Economy Status?*, 43 INT’L & COMP. L.Q. 347 (1994). Read: 349-355. [online]

David Kennedy, *The “Rule of Law,” Political Choices, and Development Common Sense*, in THE NEW LAW AND ECONOMIC DEVELOPMENT: A CRITICAL APPRAISAL 95 (David Trubek & Alvaro Santos, eds., 2006). Read: 137-139. [reader]

Read for Mon., Mar. 4

FREDERICK M. ABBOTT, THOMAS COTTIER & FRANCIS GURRY, INTERNATIONAL INTELLECTUAL PROPERTY IN AN INTEGRATED WORLD ECONOMY (2007). Read: Excerpt. [online]

Read for Weds., Mar. 6

Carol V. Rose, *The “New” Law and Development Movement in the Post-Cold War Era: A Vietnam Case Study*, 32 LAW & SOC. REV. 93 (1998). Read: Excerpt. [online]

REVIEW AND MIDTERM WEEK (no additional reading assigned)

Fri., Mar. 8: Overview of first half of course

Mon., Mar. 11: Review session

Weds., Mar. 13: Mid-term exam

7. Promoting good governance and the rule of law: Orthodox law and development today

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. Limits and criticisms of present-day orthodox law and development, including failure to address incentives and power relations, vague and multiple definitions, limited knowledge of contexts and of fundamental causal relationships, and possible regressive distributive impacts.

Fri., Mar. 15

Mon., Mar. 18

Weds., Mar. 20

Fri., Mar. 22

Read for Fri., Mar. 15:

Tor Krevor, *The Legal Turn in Late Development Theory: The Rule of Law and the World Bank's Development Model*, 52 HARV. J. INT'L L. 287 (2011).
Read: 301¶1-306. [online]

David Kennedy, *The "Rule of Law," Political Choices, and Development Common Sense*, in THE NEW LAW AND ECONOMIC DEVELOPMENT: A CRITICAL APPRAISAL 95 (David Trubek and Alvaro Santos, eds., 2006). Read: 150-163. [reader]

SPRING BREAK

Mon, Apr. 1

Weds., Apr. 3

Fri., Apr. 5

Mon., Apr. 8

World Bank, "What is Governance?" (n.d.). [online]

RACHEL KLEINFELD, ADVANCING THE RULE OF LAW ABROAD 37-58 (2012).
[reader]

Read for Mon., Mar. 18:

Stephen Golub, "Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative" (Carnegie Endowment for International Peace Working Paper No. 41, Oct. 2003). Read: Excerpt from 5-9. [online]

RACHEL KLEINFELD, ADVANCING THE RULE OF LAW ABROAD 17¶1-28part¶1 (2012). [reader]

ABA RULE OF LAW INITIATIVE, PROMOTING THE RULE OF LAW 2009 (2009).
Read: 39, 51-53. [online]

UNITED NATIONS DEVELOPMENT PROGRAM, STRENGTHENING THE RULE OF LAW IN CRISIS-AFFECTED AND FRAGILE SITUATIONS: IN BRIEF (2011). Read: 6-7. Browse to get a sense of the range of activities: 8-11 (blue boxes may be especially helpful). [online]

WORLD BANK, AFRICA: REGIONAL JUSTICE NOTE: A REVIEW AND LESSONS LEARNED (2010). Read 1-12 quickly as an example of technocratic reform. [online]

Read for Weds., Mar. 20:

Tor Krevor, *The Legal Turn in Late Development Theory: The Rule of Law and the World Bank's Development Model*, 52 HARV. J. INT'L L. 287 (2011).
Read: 291-94. [online]

Alvaro Santos, *The World Bank's Uses of the "Rule of Law" Promise in Economic Development*, in THE NEW LAW AND ECONOMIC DEVELOPMENT: A CRITICAL APPRAISAL 253 (David Trubek and Alvaro Santos eds., 2006). Read: Excerpts from 253-259, 266-286, 298-300. [reader]

Read for Fri., Mar. 22:

RACHEL KLEINFELD, ADVANCING THE RULE OF LAW ABROAD (2012). Read: 79-108. [reader]

SPRING BREAK!

Read for Mon., Apr. 1: **Guest Lecture: Stephen A. Rosenbaum, Lecturer at University of California, Berkeley, School of Law, Stanford Law School, and University of Washington School of Law, consultant to American Bar Association Rule of Law Initiative and U.S. Department of State.**

Aubrey McCutcheon, *University Legal Aid Clinics: A Growing International Presence with Manifold Benefits*, in MANY ROADS TO JUSTICE: THE LAW RELATED WORK OF FORD FOUNDATION GRANTEES AROUND THE WORLD 167 (Mary McClymount & Stephen Golub eds., 2000). Read: Excerpt. [online].

Stephen A. Rosenbaum, *Short Order Rule of Law: A Role for the Short Term Consultant*, 6 BERK. J. INT'L L. PUBLICIST 54 (2010). [online]

Read for Weds., Apr. 3:

Thomas Carothers, "Promoting the Rule of Law Abroad: The Problem of Knowledge" (Carnegie Endowment for International Peace Working Paper No. 34, Jan. 2003). Read: Excerpt from 5-11. [online]

Read for Fri., Apr. 5:

RACHEL KLEINFELD, ADVANCING THE RULE OF LAW ABROAD (2012).
[reader] Read: 109-20, 122-28, 134-43, 144-46, 150-51, 156-63. [reader]

Read for Mon., Apr. 8:

UGO MATTEI & LAURA NADER, PLUNDER: WHEN THE RULE OF LAW IS ILLEGAL (2008). Read: 1-7, 10-20. [reader]

PATRICK CHABAL & JEAN-PASCAL DALOZ, AFRICA WORKS: DISORDER AS POLITICAL INSTRUMENT (1999). Read: 1-10, 14-16. [reader]

III. Bottom-Up Models of Law and Development

8. Formalization

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.

Weds., Apr. 10

Fri., Apr. 12

Mon., Apr. 15

Read for Weds., Apr. 10:

COMMISSION ON LEGAL EMPOWERMENT OF THE POOR, *1 MAKING THE LAW WORK FOR EVERYONE* (2009). Read: 13-39 (selected portions).

Recommended: 47-56. [online]

Robert Smith, *Food Trucks Seek "That Mystical Spot"*, NATIONAL PUBLIC RADIO (online), May 4, 2012. [online]

**MON., APR. 15:
SECOND WRITING
ASSIGNMENT DUE**

Read for Fri., Apr. 12:

Ana Palacio, "Legal Empowerment of the Poor: An Action Agenda for the World Bank" (rev. Mar. 2006). Read: 38-39. [online]

WORLD BANK, *DOING BUSINESS 2013* (2012). Read: 56-57. [online]

Organization of American States, "PUICA: Civil Identity Program of the Americas: About PUICA," at

http://www.oas.org/sap/english/cpo_modernizacion_puica.asp. [online]

Organization of American States, "PUICA: Civil Identity Program of the Americas: Projects," at http://www.oas.org/sap/english/cpo_modernizacion_puica_projects.asp [online]

For Mon., Apr. 15:

Stephen Golub, *The Commission on Legal Empowerment of the Poor: One Big Step Forward and A Few Steps Back for Development Policy and Practice*, 1 HAGUE J. RULE L. 101 (2009). Read: Excerpt. [online]

David Kennedy, *Laws and Developments*, in *LAW AND DEVELOPMENT: FACING COMPLEXITY IN THE 21ST CENTURY* 17 (John Hatchard & Amanda Perry-Kessaris eds., 2003). Read: 18-23. [reader]

Jan Michiel Otto, *Rule of Law Promotion, Land Tenure and Poverty Alleviation: Questioning the Assumptions of Hernando de Soto*, 1 HAGUE J. RULE L. 173 (2009). Read: Excerpt. [online]

Frank Upham, "Mythmaking in the Rule-of-Law Orthodoxy" (Carnegie Endowment for International Peace Working Paper No. 30, Sep. 2002). Read: Excerpt from 11-14. [online]

9. The Access to Knowledge ("A2K") movement

Topics: Critiques of traditional intellectual property rights as favoring interests of developed rather than developing countries. Opposition by "Access to Knowledge" ("A2K") movement comprising a range of actors from developing and developed worlds and various positions, including governments, international organizations, and NGOs. Creative A2K advocacy that combines use of existing intellectual property rights, efforts to change them, and legal alternatives to them. Successes and failures of A2K movement.

Weds., Apr. 17

Fri., Apr. 19

Readings to be announced and distributed.

**10. Non-state law
and legal
empowerment**

Mon., Apr. 22

Weds., Apr. 24

Fri., Apr. 26

Mon., Apr. 29

Weds., May 1

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, a Sierra Leonean NGO. Overview of non-state legal systems and processes. Terminological and conceptual distinctions (e.g., “non-state” vs. “informal” vs. “customary” vs. “traditional”). Common objections to non-state legal systems. Strategies for promoting change. Challenges of designing change strategies. The roles of “insiders” and “outsiders.”

Read for Mon., Apr. 22: Introduction to Sierra Leone

Jamie O’Connell, *Here Interest Meets Humanity: How to End the War and Support Reconstruction in Liberia, and the Case for Modest American Leadership*, 17 HARV. HUM. RTS. J. 207 (2004). Read: Excerpt. [online]

Vivek Maru, *Between Law and Society: Paralegals and the Provision of Justice Services in Sierra Leone and Worldwide*, 31 YALE J. INT’L L. 428 (2006). Read: Excerpt. [online]

Recommended: Pamela Dale, *Barriers to Justice in Sierra Leone*, 1 JUSTICE FOR THE POOR (2007). (Four-page summary of obstacles to accessing justice for poor Sierra Leoneans.) [online]

Read for Weds., Apr. 24: Legal Empowerment.

Stephen Golub, *The Legal Empowerment Alternative*, in PROMOTING THE RULE OF LAW ABROAD: IN SEARCH OF KNOWLEDGE 161 (Thomas Carothers ed., 2006). Read: 161-65, 166-73. [online]

Stephen Golub, *What is Legal Empowerment?*, in LEGAL EMPOWERMENT: PRACTITIONERS’ PERSPECTIVES 93 (Stephen Golub ed., 2010). Read: Excerpt. [online]

Stephen Golub, *Non-state Justice Systems in Bangladesh and the Philippines* (Jan. 2003). Read: Excerpt from 3-12. [online]

Read for Fri., Apr. 26: Customary/Non-State Law: Strengths and Weaknesses

Ewa Wojkowska & Johanna Cunningham, *Justice reform’s new frontier: engaging with customary systems to legally empower the poor*, in LEGAL EMPOWERMENT: PRACTITIONERS’ PERSPECTIVES 93 (Stephen Golub ed., 2010). Read: Excerpt from Part 2. [online]

WORLD BANK, *FORGING THE MIDDLE GROUND: ENGAGING NON-STATE JUSTICE IN INDONESIA* (2008). Read: Excerpt from 41-47. [online]

Review Pa Lansana case from Monday’s reading

Read for Mon., Apr. 29: Timap for Justice: Activities

Refresh your memory of situation in Sierra Leone from Maru excerpt assigned for last Monday:

Read carefully this new excerpt: Vivek Maru, *Between Law and Society: Paralegals and the Provision of Justice Services in Sierra Leone and Worldwide*, 31 YALE J. INT’L L. 428 (2006). Read: Second excerpt. [online]

Read for Weds., May 1: Timap for Justice: Analysis

Vivek Maru, *Between Law and Society: Paralegals and the Provision of Justice Services in Sierra Leone and Worldwide*, 31 YALE J. INT'L L. 428 (2006). Read: Third excerpt. [online]

Jamie O'Connell, *Empowering the Disadvantaged after Dictatorship and Conflict: Legal Empowerment, Transitions and Transitional Justice*, in LEGAL EMPOWERMENT: PRACTITIONERS' PERSPECTIVES 113 (Stephen Golub ed., 2010). Read: Excerpt. [online]

Allison D. Kent, *Custody, Maintenance, and Succession: The Internalization of Women's and Children's Rights under Customary Law in Africa*, 28 MICH. J. INT'L L. 507 (2007). Read: 525-28. [online]

Course conclusion

Fri., May 3

No new readings.
