

LAW & DEVELOPMENT**SYLLABUS****FALL 2014****4 UNITS**

Professor Jamie O'Connell
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Office hours: Wednesdays 3:30-5:00 and
Fridays 11:30-1:30. You are welcome to
drop in unannounced, or reserve a slot in
advance by signing up on the Google
document linked from the top of the
course home page on bCourses.

Graduate Student Instructors:

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LECTURE: Monday, Wednesday, Friday, 10-11 (150 Goldman School of Public Policy)

SECTIONS: Wednesday, 8-9 (122 Latimer), Wednesday 11-12 (237 Cory), Friday 11-12 (237 Cory),
Friday 1-2 (78 Barrows)

COURSE DESCRIPTION

Focusing on developing countries, this course studies the relationship between law and development. Initiatives to change law in order to promote development are its core concern. National and local leaders have led such efforts for centuries. In the last fifty years, however, international organizations, foreign aid agencies, and local and international non-governmental organizations have become extraordinarily active. Since 1990 their activities have intensified, and they now spend 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 tensions between theory and practice that researchers and development practitioners have identified. The key actors in international law-related development work will become familiar, and we will learn concretely what they do. The clashes of interests that arise in development work loom large in the course, as does the proper role of technical experts in policymaking. Finally, by the end of the term, we will understand how practitioners’ and analysts’ views of the relationship between development and law have changed over the last fifty years.

COURSE REQUIREMENTS

GRADING

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

Lecture: attendance	8%
Lecture: occasional participation	2
Discussion section	20
Short written assignments for lecture (due Wednesday, September 24 and Friday, November 7)	10
Midterm exam (Friday, October 17, in class)	20
Final exam (Monday, December 15, 8:00 a.m. – 11:00 a.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 bCourses.

The easiest way for you to figure out what to read for each class session is to check the section of the course homepage for that date on bCourses. (You also can use this syllabus.) If all readings are in the reader, you will see a comment to that effect. For most some or all of the readings are posted online. For those, you will find on bCourses a PDF file with list of all readings for the session (including any in the reader) and all of the online readings. *We highly recommend that you do the readings in the order in which they are listed, even when that requires skipping back and forth between reader and electronic packet*, since in many cases the sequence will aid your comprehension.

ATTENDANCE AND PARTICIPATION IN LECTURE

We will take attendance at lectures. To facilitate that, at our *third class meeting, on Friday, September 5*, you will choose a seat for the semester. You may miss up to three lectures without penalty. That allowance allows *you* to determine which conflicting needs justify missing class, and which are not important enough. For example, these “free” absences are meant to cover illness, job interviews, travel to spend time with family or friends, etc. You do not need to notify Professor O’Connell or your GSIs when you will be using your three excused absences, let alone explain why you are gone. For each absence beyond three, however, your lecture attendance and participation grade (10% of your course grade) will be reduced by one percentage point. If exceptional circumstances require you to miss more than three lectures, we will consider excusing additional absences.

There will be opportunities for participation during lecture session, by asking questions and engaging in collective discussion. Two points of your final grade 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 **Wednesday, September 24**, and **Friday, November 7**, at the beginning of lecture. 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 Friday, October 17. Professor O'Connell will review the first half of the semester during lecture on Monday, October 13. Lecture on Wednesday, October 15 will be a less formal review session.

The final exam will be held Monday, December 15, from 8:00 a.m. to 11:00 a.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.*

LIFE CHALLENGES

Every semester, many UC Berkeley students confront severe life challenges that interfere with their learning and academic performance. These challenges take many forms, including acute depression and other mental health issues, serious illness, addiction, and family and personal financial difficulties.

We want each of you to learn and perform in this course up to your full potential. A severe life challenges can unfairly disadvantage the student grappling with it. If you are dealing with a severe challenge – whether one of the examples given above or something else – that may be affecting your performance in this course, please consider sharing it with Professor O'Connell or your GSI, so that we can try to help you overcome any disadvantage it creates.

CONFLICTS WITH EXTRACURRICULAR ACTIVITIES (INCLUDING ATHLETICS)

If you participate in an extracurricular activity that may interfere with your 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 end of the second full week of the semester* (September 12). 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.

ADDITIONAL RESOURCES

The websites of the World Bank (www.worldbank.org), its Justice for the Poor program (<http://go.worldbank.org/SMIKY7M6O0>), the American Bar Association's Rule of Law Initiative (http://www.americanbar.org/advocacy/rule_of_law.html), the United Nations Development Program (www.undp.org), the legal empowerment NGO Namati (<http://www.namati.org>), 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 Fri., Aug. 29:

H. W. ARNDT, *ECONOMIC DEVELOPMENT: THE HISTORY OF AN IDEA* (1989). Read: 1-7. [reader, online]

Fri., Aug. 29

**NO CLASS MON.,
SEP. 1: LABOR DAY**

Read for Wed., Sep. 3:

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

UNITED NATIONS DEVELOPMENT PROGRAM, *HUMAN DEVELOPMENT REPORT 1990* (1990). Read: Excerpts from 1-3, 9. [online]

LS158 Handout: Human Development Index [online]

JOHN VENTURA, *LAW FOR DUMMIES* (1996). Read: 9-12. Optional: 12-14. [reader and online]

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

Wed., Sep. 3

Fri, Sep. 5

Read for Fri., Sep. 5:

Devices in the classroom: Questions to discuss. [online]

Ban laptops in class, CHRON. (Duke University's equivalent of the *Daily Cal*), Feb. 27, 2013. [online]

Rebecca Schuman, *In Defense of Laptops in the Classroom*, SLATE, June 15, 2014. [online]

Dan Rockmore, *The Case for Banning Laptops in the Classroom*, NEW YORKER, June 6, 2014. [online]

Hector Quesada, *Professors Should Permit Laptop Use in Classroom*, COLLEGIATE TIMES, Sep. 19, 2012. [online]

Robinson Meyer, *To Remember a Lecture Better, Take Notes by Hand*, ATLANTIC (online), May 1, 2014. [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., Sep. 8

Wed., Sep. 10

Fri., Sep. 12

Read for Mon., Sep. 8:

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, excerpts from 20-36. [reader]

Read for Wed., Sep. 10:

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

Read for Fri., Sep. 12:

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

Julie Cohn, *Tiny Village Where Women Chose to Be Single Mothers*, N.Y. TIMES, Feb. 15, 2013. [online]

Kareem Fahim & Suadad Al-Salhy, *Exhausted and Bereft, Iraqi Soldiers Quit Fight*, N.Y. TIMES, June 10, 2014. [online]

II. THE EVOLUTION OF LAW AND DEVELOPMENT

3. Becoming “modern”: Japan in the Meiji period

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.

Mon., Sep. 15

Wed., Sep. 17

Fri., Sep. 19

Read for Mon., Sep. 15:

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 Wed., Sep. 17 :

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

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

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

TURAN KAYAOĞLU, *LEGAL IMPERIALISM: SOVEREIGNTY AND EXTRATERRITORIALITY IN JAPAN, THE OTTOMAN EMPIRE, AND CHINA* (2010). Read: Excerpts from 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., Sep. 19:

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) (excerpts). [online]

4. Modernization and the Law and Development Movement

Topics: Development as “modernization.” Law as a tool of state-led development.. Lawyer as problem-solver model of legal practice. Reforming Brazilian legal education case study. Efforts at legal change driven by outside development agencies and foundations (such as Ford Foundation). Critiques of the vision and execution of the Law and Development Movement.

Mon., Sep. 22

Wed., Sep. 24

Fri., Sep. 26

Read for Mon., Sep. 22:

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

THOMAS CAROTHERS & DIANE DE GRAMONT, *DEVELOPMENT AID CONFRONTS POLITICS: THE ALMOST REVOLUTION* (2013). Read: 21-28. [reader]

Mon., Sep. 29

Wed., Oct. 1

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]

Wed., Sep. 24: FIRST WRITING ASSIGNMENT DUE

Read for Wed., Sep. 24:

Review readings from last class session.

Read for Fri., Sep. 26:

JAMES GARDNER, *LEGAL IMPERIALISM* (1986). Read: 6-8, 12-15, excerpts from 35-50 (about nine pages), 215-217. [reader]

Read for Mon., Sep. 29:

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., c. 2011). Read: Excerpt. [online]

Read for Wed., Oct. 1:

THOMAS CAROTHERS & DIANE DE GRAMONT, *DEVELOPMENT AID CONFRONTS POLITICS: THE ALMOST REVOLUTION* (2013). Read: 28-30. [reader]

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: Excerpts from 1070-1076, 1078-1084, 1088-1093 [online]

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

5. Neoliberal growth and the revival of law and development

Topics: The neoliberal economic model. 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. Resistance to development policies.

Read for Fri., Oct. 3:

Fri., Oct. 3

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]

Mon., Oct. 6

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]

Wed., Oct. 8

World Bank, "About Us" (as of Feb. 2011). [online]

Fri., Oct. 10

Read for Mon., Oct. 6

THOMAS CAROTHERS & DIANE DE GRAMONT, DEVELOPMENT AID CONFRONTS POLITICS: THE ALMOST REVOLUTION (2013). Read: 41-46. [reader]

Jeffrey J. Hawkins Jr., *Understanding the Failure of IMF Reform: The Zambian Case*, 19 WORLD DEV. 839 (1991). Read: Excerpts. [online]

Read for Wed., Oct. 8:

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

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: Excerpts from 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. [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 Fri., Oct. 10:

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: Excerpts. [online]

REVIEW AND MIDTERM WEEK (no additional reading assigned)

Mon., Oct. 13: Overview of first half of course

Wed., Oct. 15: Review session

FRI., OCT. 17: MID-TERM EXAM

**6. Promoting
“good
governance”
and the “rule of
law”: Orthodox
law and
development
today**

Topics: Changing views of role of the state. Major institutions’ turn to “good governance” and the “rule of law” as key influences on economic growth and ends in themselves. Broadening of conceptions of development to include political/legal criteria. The World Bank as a key actor in law and development. Analyzing causal connections between law and development projects and their goals. Common patterns in orthodox law and development programming, and limits and criticisms of it. The “technocratic temptation” and high modernist ambition in law and development. Intellectual property rights to medicines as an example of competing interests in law and development.

Mon., Oct. 20

Read for Mon., Oct. 20:

Wed., Oct. 22

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: Excerpts from 150-160. [reader]

Fri., Oct. 24

THOMAS CAROTHERS & DIANE DE GRAMONT, *DEVELOPMENT AID CONFRONTS POLITICS: THE ALMOST REVOLUTION* (2013). Read: Excerpts from 55-60, 63-64, 66-70. [reader]

Mon., Oct. 27

Wed., Oct. 29

Fri., Oct. 31

Read for Wed., Oct. 22:

Mon, Nov. 3

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]

Wed., Nov. 5

CATHERINE WEAVER, *HYPOCRISY TRAP: THE WORLD BANK AND THE POVERTY OF REFORM* (2008). Read: 95-99. [reader]

Fri., Nov. 7

**Fri., Nov.7: SECOND
WRITING
ASSIGNMENT DUE**

Hassane Cissé, *Should the Political Prohibition in Charters of International Financial Institutions Be Revisited?: The Case of the World Bank*, 3 *WORLD BANK L. REV.* 59 (2012). Read: 59-60. [online]

Klaus Decker, *World Bank Rule-of-Law Assistance in Fragile States: Developments and Perspectives*, in *LAW IN THE PURSUIT OF DEVELOPMENT: PRINCIPLES INTO PRACTICE?* 224 (Amanda Perry-Kessaris ed., 2010). Read: 228-31. [reader]

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

RACHEL KLEINFELD, *ADVANCING THE RULE OF LAW ABROAD* (2012). Read: Excerpts from 21-23, 26-27. [reader]

Read for Fri., Oct. 24:

Liu Shenjun, *Rights Lawyer: "No True Rule of Law in China"*, DEUTSCHE WELLE (online), Apr. 25, 2014 (excerpt). [online]

Joseph Kahn, *When Chinese Sue the State, Cases Are Often Smothered*, N.Y. Times, Dec. 28, 2005. [online]

Matthew Stephenson, A TROJAN HORSE IN CHINA?, in *PROMOTING THE RULE OF LAW ABROAD: IN SEARCH OF KNOWLEDGE* 191 (Thomas Carothers ed., 2006).
Read: Excerpt. [online]

Recommended:

World Justice Project, *Rule of Law Index 2014* (2014). Read: 61 (How to Read the Country Profiles), 80 (China profile). [online]

Read for Mon., Oct. 27:

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* (2012). Read: Excerpts from 81-83, 86, 87-89. [reader]

Read for Wed., Oct. 29: **Guest speaker: William Davis, co-founder, DPK Consulting**

Readings to be announced.

Read for Fri., Oct. 31:

THOMAS CAROTHERS & DIANE DE GRAMONT, *DEVELOPMENT AID CONFRONTS POLITICS: THE ALMOST REVOLUTION* (2013). Read: 3-5, 8-10, 72-73, 75-81. [reader]

Asia Foundation, *China* (excerpt describing Foundation's work in China), Sep. 2013. [online]

Benjamin van Rooij & Alex Wang, *China's Pollution Challenge*, N.Y. TIMES, May 19, 2014. [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: 18-20. [reader]

Read for Mon., Nov. 3:

THOMAS CAROTHERS & DIANE DE GRAMONT, *DEVELOPMENT AID CONFRONTS POLITICS: THE ALMOST REVOLUTION* (2013). Read: Excerpts from 10-11, 14, 158-162, 180-182. [reader]

Read for Wed., Nov. 5:

FREDERICK M. ABBOTT, THOMAS COTTIER & FRANCIS GURRY, INTERNATIONAL INTELLECTUAL PROPERTY IN AN INTEGRATED WORLD ECONOMY (2007). Read: 6-8. [reader]

Chan Park & Leena Menghaney, *TRIPS Flexibilities: The Scope of Patentability and Oppositions to Patents in India*, in ACCESS TO KNOWLEDGE IN THE AGE OF INTELLECTUAL PROPERTY 415 (Gaëlle Krikorian & Amy Kapczynski eds., 2010) (excerpt). [online]

Recommended:

Very readable analysis of the potential international impact of India's approach to intellectual property in drug cases: Gardiner Harris, *India's Efforts to Aid Poor Worrying Drug Makers*, N.Y. TIMES, Dec. 29, 2013. [online]

Very good analysis by a UK government-sponsored commission of experts, on international and domestic intellectual property laws and their relationship to development: COMMISSION ON INTELLECTUAL PROPERTY RIGHTS, INTEGRATING INTELLECTUAL PROPERTY RIGHTS AND DEVELOPMENT POLICY (2002). Read: Excerpt from 1-8. [online]

Read for Fri., Nov. 7:

Thomas Carothers, *Rule of Law Temptations*, FLETCHER F. WORLD AFF., Win./Spr. 2009, at 49 (2009). Read: 59-60. [online]

Edwin Gardner, *Seeing Like a Society: Interview with James Scott*, VOLUMEPROJECT.ORG BLOG, July 20, 2008 (excerpt). [online]

JAMES C. SCOTT, TWO CHEERS FOR ANARCHISM (2012). Read: 41-49. [reader]

JAMES C. SCOTT, SEEING LIKE A STATE: HOW CERTAIN SCHEMES TO IMPROVE THE HUMAN CONDITION HAVE FAILED (1998). Read: Excerpts from 88-96 ("Authoritarian High Modernism"). [reader]

III. ENGAGING INFORMAL AND CUSTOMARY PRACTICES

7. 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 formalization strategy.

Mon., Nov. 10

Wed., Nov. 12

Fri., Nov. 14

Read for Mon., Nov. 10

COMMISSION ON LEGAL EMPOWERMENT OF THE POOR, 1 MAKING THE LAW WORK FOR EVERYONE (2009). Read: Excerpts from 13-39. Recommended: 47-56. [online]

Tetra Tech DPK, Annual Report 2012, Box 2, p. 5 (“Iraq: Legal Marriage Secures Rights for a Woman and her Child”). [online]

Read for Wed., Nov. 12:

Suzanne Daley, *Who Owns This Land? In Greece, Who Knows?*, N.Y. TIMES, May 26, 2013. [online]

Ian Lovett, *Food Carts in Los Angeles Come Out of the Shadows*, N.Y. TIMES, Dec. 4, 2013 (excerpts). [online]

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

Organization of American States, “PUICA: Civil Identity Program of the Americas: About PUICA,” (2008). [online]

LS158 Handout: Formalization: OAS Haiti Civil Identity Project. [online]

For Fri., Nov. 14:

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

JAMES C. SCOTT, TWO CHEERS FOR ANARCHISM (2012). Read: 87-88. [reader]

Matthew Stephenson, A TROJAN HORSE IN CHINA?, in PROMOTING THE RULE OF LAW ABROAD: IN SEARCH OF KNOWLEDGE 191 (Thomas Carothers ed., 2006). Read: 207-09. [online]

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: Excerpts. [online]

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

Mon., Nov. 17

Wed., Nov. 19

Fri., Nov. 21

Topics: Frequently identified characteristics and objections to non-state legal systems. Terminological and conceptual distinctions between “non-state,” “informal,” “customary,” and “traditional.” 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. Case study of the Sierra Leonean NGO Timap for Justice. The roles of “insiders” and “outsiders.”

Read for Mon., Nov. 17: 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]

Mon., Nov. 24

Mon., Dec. 1

Wed., Dec. 3

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

Ellen Barry, *Indian Girl’s Rape Called Case of Eye-for-Eye Village Justice*, N.Y. TIMES, July 12, 2014. [online]

**NO CLASS ON
WEDNESDAY,
NOVEMBER 26 –
HAPPY
THANKSGIVING!**

Read for Wed., Nov. 19: Sierra Leone’s Dualist Legal System

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]

Pamela Dale, *Barriers to Justice in Sierra Leone*, 1 JUSTICE FOR THE POOR (2007). [online]

Read for Fri., Nov. 21: Timap for Justice: Activities

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 Mon., Nov. 24: Legal Empowerment

Guest speaker: Stephen Golub, Visiting Professor, Central European University, consultant to World Bank, USAID, United Nations Development Program, and other development agencies.

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 25-33. [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]

No class on Wed., Nov. 26.

Read for Mon., Dec. 1: Timap for Justice: Analysis

Review previous excerpt by Maru, read for Friday, November 21.

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]

Read for Wed., Dec. 3:

Readings to be announced.

Course conclusion

Fri., Dec. 5

No new readings.
