

**Law and Development  
Legal Studies 158**

Spring 2012

Lecture: Monday, Wednesday, Friday, 1-2 (141 McCone)

4 units

Sections: Monday 3-4 (255 Dwinelle), Wednesday 3-4 (50 Barrows),  
Thursday 2-3 (140 Barrows), Friday 11-12 (103 Wheeler)

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Office hours: Mondays, 2:15-4:15 (Sign up  
on sheet linked from  
"Resources:Administrative" folder on  
course website.)

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**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 (due <b>Saturday, February 11</b> and <b>Thursday, March 1</b> )	10%
Midterm exam ( <b>Friday, March 9, in class</b> )	20%
Final exam ( <b>Tuesday, May 8, 8-11 a.m.</b> )	<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 the course website.

The ASUC Bookstore has copies for purchase of Thomas Carothers, ed., *Promoting the Rule of Law Abroad: In Search of Knowledge* (2006), which is required. The book is on reserve at Moffitt Library.

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 *Promoting the Rule of Law Abroad* or the reader will be flagged (as “[IN BOOK]” OR “[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 the course website.

### 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 Saturday, February 11 and Thursday, March 1. 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, March 9.** Lecture on Wednesday, March 7 will be devoted to an informal, optional review session.

**The final exam will be held Tuesday, May 8, from 8 to 11 a.m.** We will schedule a review session 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](http://www.worldbank.org)), its Justice for the Poor program (<http://go.worldbank.org/SMIKY7M6O0>), the United Nations Development Program ([www.undp.org](http://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

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### I. Introduction

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- 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 18:

Weds., Jan. 18

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

Fri, Jan. 20

United Nations Development Program, “The Human Development concept” (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” (i.e., skip “The disaggregated HDI” onward). 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/>. *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]

Read for Fri., Jan. 20:

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

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

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**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. 23

Weds., Jan. 25

**NOTE: No class Fri., Jan. 27 or Mon., Jan. 30**

Read for Mon., Jan. 23:

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 19<sup>TH</sup>- AND 20<sup>TH</sup>-CENTURY AFRICA AND ASIA* 15 (W.J. Mommsen & J.A. De Moor eds., 1992). Read: 15-17, 20-36. [reader]

Weds., Feb. 1

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Read for Weds., Jan. 25:

MAHMOOD MAMDANI, *CITIZEN AND SUBJECT: CONTEMPORARY AFRICA AND THE LEGACY OF LATE COLONIALISM* (1996). Read: 109-128. [reader]

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

Read for Weds., Feb. 1:

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

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## II. The Evolution (?) of Law and Development

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### 3. Becoming "modern"

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.

Fri., Feb. 3

Mon., Feb. 6

Weds., Feb. 8

Read for Fri., Feb. 3:

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 Mon., 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]

KENNETH G. HENSHALL, *A HISTORY OF JAPAN: FROM STONE AGE TO SUPERPOWER* (2d ed. 2004). Read: Excerpts from 86-92. Recommended: 102-105. [reader]

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

Read for Weds., Feb. 8:

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

Masaji Chiba, *Japan*, in *ASIAN LEGAL SYSTEMS: LAW, SOCIETY, AND PLURALISM IN EAST ASIA* 82 (Poh-Ling Tan ed., 1997). Read: 102-104. [reader]

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**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 Fri., Feb. 10:

Fri., Feb. 10

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

Mon., Feb. 13

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

Weds., 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]

**NOTE: FIRST WRITING ASSIGNMENT DUE SAT., FEB. 11**

Read for Mon., Feb. 13:

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

Read for Weds., 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]

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**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. 17:

Fri., Feb. 17

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, 1078-1084, 1088-1093. [online]

Mon., Feb. 20: NO CLASS (President’s Day)

JAMES GARDNER, *LEGAL IMPERIALISM* (1986). Read: 3-6, 8-12, 239-246. [reader]

Weds., Feb. 22

Read for Weds., Feb. 22:

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

Fri., Feb. 24

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

Read for Fri., Feb. 24:

No additional readings.

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**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.

Mon., Feb. 27

Read for Mon., Feb. 27:

Weds., Feb. 29

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]

Fri., Mar. 2

Kevin E. Davis & Michael J. Trebilcock, *The Relationship between Law and Development: Optimists versus Skeptics*, 56 AM. J. COMP. L. 895 (2008). Read: 902-905. [online]

**NOTE: SECOND WRITING ASSIGNMENT DUE THU., MAR. 1**

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: 137-139. [reader]

Read for Weds., Feb. 29:

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]

Read for Fri., Mar. 2

Gianmaria Ajani, *By Chance and Prestige: Legal Transplants in Russia and Eastern Europe*, 43 AM. J. COMP. L. 93 (1995). [online]

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**REVIEW AND MIDTERM WEEK (no additional reading assigned)**

Mon., Mar. 5: Overview of first half of course

Weds., Mar. 7: Midterm review

Fri., Mar. 9: Mid-term exam

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**7. Promoting 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.

Read for Mon., Mar. 12:

Mon., Mar. 12

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]

Weds., Mar. 14

Thomas Carothers, *The Rule of Law Revival*, in PROMOTING THE RULE OF LAW ABROAD: IN SEARCH OF KNOWLEDGE 3 (Thomas Carothers ed., 2006). Read: Whole chapter. [book]

Fri., Mar. 16

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

Read for Weds., Mar. 14:

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

WORLD BANK, WORLD DEVELOPMENT REPORT 1997: THE STATE IN A CHANGING WORLD (1997). Read: iii-iv, 15. [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: 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: 253-259, 266-286, 298-300. [reader]

Read for Fri., Mar. 16: **Guest speaker: Debra Ladner, Director of Programs, Governance and Law, The Asia Foundation**

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

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

Topics: Limits and criticisms of good governance and rule of law promotion, including vague and multiple definitions, limited knowledge of contexts and of fundamental causal relationships, and failure to address incentives and power relations.

Read for Mon., Mar. 19:

Mon., Mar. 19

Thomas Carothers, *Rule of Law Temptations*, 33 FLETCHER FORUM WORLD AFFS. 49 (2009). Read: 49-55, 58-61. [online]

Weds., Mar. 21

Rachel Kleinfeld, *Competing Definitions of the Rule of Law*, in PROMOTING THE RULE OF LAW ABROAD: IN SEARCH OF KNOWLEDGE 31 (Thomas Carothers ed., 2006). Read: 31-34 (end before "End-Based Definitions"). [book]

Fri., Mar. 23

Frank Upham, *Mythmaking in the Rule-of-Law Orthodoxy*, in PROMOTING THE RULE OF LAW ABROAD: IN SEARCH OF KNOWLEDGE 75 (Thomas Carothers ed., 2006). Read: 77-79 ("The World Bank Model," on p. 77, through bullets on p. 79). [book]

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Read for Weds., Mar. 21:

Brian Z. Tamanaha, *The Primacy of Society and the Failures of Law and Development*, St. John's University School of Law, Legal Studies Research Paper Series, No. 09-0172 (Dec. 2009). Read: 9-14. [online]

Matthew Spence, *The Complexity of Success in Russia*, in PROMOTING THE RULE OF LAW ABROAD: IN SEARCH OF KNOWLEDGE 217 (Thomas Carothers ed., 2006). Read: 217-218 (first two full paras.), 224-226 (first para.), 235 (first para.)-236 (first few lines) (i.e., "Lessons for Rule of Law Promotion" introduction and "The Outcome: A Good, but Imperfect Law"), 239-241. [book]

Ellen Barry, *Russian Convicted Though Jurors Favored Acquittal*, N.Y. TIMES, Dec. 28, 2010. [online]

Stephen Golub, *A House Without a Foundation*, in PROMOTING THE RULE OF LAW ABROAD: IN SEARCH OF KNOWLEDGE 105 (Thomas Carothers ed., 2006). Read: 105-109 (stop at "Assumed Impact on Poverty Alleviation"), 116-130. [book]

Read for Fri., Mar. 23:

Thomas Carothers, *The Problem of Knowledge*, in PROMOTING THE RULE OF LAW ABROAD: IN SEARCH OF KNOWLEDGE 15 (Thomas Carothers ed., 2006). Read: Whole chapter. [book]

Kevin E. Davis & Michael J. Trebilcock, *The Relationship between Law and Development: Optimists versus Skeptics*, 56 AM. J. COMP. L. 895 (2008). Read: 938-946. [online]

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## SPRING BREAK

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### III. Bottom-Up Models of Law and Development

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#### 9. 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.

Mon., Apr. 2

Weds., Apr. 4

Fri., Apr. 6

Read for Mon., Apr. 2:

COMMISSION ON LEGAL EMPOWERMENT OF THE POOR, 1 MAKING THE LAW WORK FOR EVERYONE (2009). Read: 13-39 (selected portions). Recommended: 47-56. [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](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](http://www.oas.org/sap/english/cpo_modernizacion_puica_projects.asp) [online]

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Read for Weds., Apr. 4:

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]

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*, in PROMOTING THE RULE OF LAW ABROAD: IN SEARCH OF KNOWLEDGE 75 (Thomas Carothers ed., 2006). Read: 80-83 (first para.). [book]

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]

For Fri., Apr. 6:

No additional readings.

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## 10. Human Rights and Development

Topics: Differences between classic model of development work and human rights activism. Using human rights law and human rights approaches to shape development initiatives. Influence of human rights on development practice, including in United Nations and large international NGOs.

Mon., Apr. 9

Weds., Apr. 11

Fri., Apr. 13

Read for Mon., Apr. 9:

PETER UVIN, HUMAN RIGHTS AND DEVELOPMENT (2004). Read: 9-13, 47-50. [reader]

Robert Archer, *Linking Rights and Development: Some Critical Challenges*, in RIGHTS-BASED APPROACHES TO DEVELOPMENT: EXPLORING THE POTENTIAL AND PITFALLS 21 (Sam Hickey & Diana Mitlin eds., 2009). [reader]

Read for Weds., Apr. 11:

Marjolein Brouwer et al., *The experiences of Oxfam International and its affiliates in rights-based programming and campaigning*, in REINVENTING DEVELOPMENT: TRANSLATING RIGHTS-BASED APPROACHES FROM THEORY INTO PRACTICE 63 (Paul Gready & Jonathan Ensor eds., 2005). [reader]

Read for Fri., Apr. 13:

PETER UVIN, HUMAN RIGHTS AND DEVELOPMENT (2004). Read: 129-137 [reader]

UNITED NATIONS OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, FAQ ON A HUMAN RIGHTS-BASED APPROACH TO DEVELOPMENT COOPERATION (2006). Read: 15-18. [online]

Jennifer Chapman et al., *Rights-Based Development: The Challenge of Change and Power for Development NGOs*, in RIGHTS-BASED APPROACHES TO DEVELOPMENT: EXPLORING THE POTENTIAL AND PITFALLS 165 (Sam Hickey & Diana Mitlin eds., 2009). [reader]

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

Mon., Apr. 16

Weds., Apr. 18

Fri., Apr. 20

Mon., Apr. 23

Weds., Apr. 25

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. 16: 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. 18: Introduction to Customary Law

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]

Read for Fri., Apr. 20: 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., Apr. 23: Timap for Justice: Method

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 Weds., Apr. 25:

Stephen Golub, *The Legal Empowerment Alternative*, in PROMOTING THE RULE OF LAW ABROAD: IN SEARCH OF KNOWLEDGE 161 (Thomas Carothers ed., 2006). Read: Whole chapter. [book]

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**Course conclusion**

Fri., Apr. 27

No new readings.

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