

**LAW AND ECONOMIC DEVELOPMENT: THEORIES, POLICIES AND
INSTITUTIONS
PPAI 1520 SO1**

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TAUBMAN CENTER FOR PUBLIC POLICY AND AMERICAN INSTITUTIONS
FALL, 2008
SYLLABUS**

Course Description:

In this course we will examine some of the major economic theories of development, their translation into diverse political and social policies and the legal and institutional mechanisms devised to implement those policies around the world from about 1950 to the present. The focus of the course will be on the role of law and institutions in the creation of markets and the distributional consequences of various legal frameworks on local and global social welfare. We will look at ways in which similar economic ideas can support quite different policy strategies and how similar legal and institutional arrangements can produce quite different economic results. At the same time, we will explore how the social and political context in particular countries and regions can shape the impact of general economic theories on development. We will pay particular attention to the legal and institutional possibilities for political and social actors in particular contexts, exploring how the legal and institutional choices these actors can profoundly transform the economic and social reality of the places in which they work. At the conclusion of this course you should have economic development policies and institutions in historical perspective as well as some understanding of the way economic and social theory is translated into policy and then into implementing legal institutions and the range of political and social choices embedded in these processes. No background in legal studies, economic theory or development studies is required though some background in one or more of the foregoing would be helpful.

Readings:

Students are **required** to purchase: JAMES CYPHER AND JAMES DIETZ, The Process of Economic Development, 2nd Edition (Routledge, 2004) and The New Law and Economic Development (D. Trubek and A. Santos, eds.) (Cambridge Univ. Press, 2006). *Required* readings marked “**SM**” will be available in electronic form through the Library Online Course Reserves Access system from the MyCourses webpage for the course. In addition, copies of AMARTYA SEN, Development as Freedom (1999) and HERNANDO DE SOTO, The Mystery of Capital (2000) will be available at the Brown Bookstore for those who choose to buy them.

Exam:

A take home exam will be available on the last day of the course and will be due at the **in my faculty mailbox at the Taubman Center for Public Policy** on the last day of the exam period. Your exam will count for 50% of your grade.

Short Papers:

You are required to write three short (2-4 pages) papers analyzing the readings for three class days of your choice. These short papers will count for 50% of your grade.

Part I: Introduction: What is “Development?”

CLASS 1

MEASURING ECONOMIC DEVELOPMENT

Required: CYPHER AND DIETZ, Chapter 2 (Measuring Economic Growth and Development) pp. 28-57.

SM: AMARTYA SEN, Development as Freedom (1999) pp. 3-11.

CLASS 2

THE WORLD HISTORY OF DEVELOPMENT AS SOCIAL TRANSFORMATION

Required: CYPHER AND DIETZ, Chapter 3 (Development in Historical Perspective) pp. 66-95.

Part II: Economic Theories and National Development Policies 1950-1980: The Rise and Fall of Import Substitution Industrialization

A. Economic Theories of Development After 1945

CLASS 3

NEO CLASSICAL AND KEYNESIAN THEORIES OF DEVELOPMENT

Required: CYPHER AND DIETZ, Chapter 4-5 (Neoclassical and Developmentalist Theories) pp. 103-124, 128- 154.

CLASS 4

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

Required: CYPHER AND DIETZ Chapter 6 (Heterodox Theories) pp. 158-185.

SM: GUNNAR MYRDAL, “The Drift Toward Regional Economic Inequalities in a Country,” in Economic Theory and Underdeveloped Regions (1957), pp. 23-38.

Optional: **SM:** GUNNAR MYRDAL, Appendix 2, “The Mechanisms of Development and Underdevelopment” in Asian Drama, Vol. III, Appendix 2 (1968), pp. 1843-1940.

B. Import Substitution Industrialization: The Program

CLASS 5

IMPORT SUBSTITUTION INDUSTRIALIZATION: THE LEGAL AND POLICY PROGRAM

Required: CYPHER AND DIETZ , Chapter 9 (Initial Structural Transformation) pp. 248-273.

DAVID KENNEDY, “The ‘Rule of Law,’ Political Choices and Development Common Sense,” in The New Law and Economic Development (D. Trubek and A. Santos, eds.) (2006), pp. 98-106.

SM: ALICE AMSDEN, Statistical Table on ISI results (To be distributed).

C. The Demise of Import Substitution Industrialization

CLASS 6

PROBLEMS OF IMPLEMENTATION AND UNINTENDED CONSEQUENCES

Required: **SM:** ANNE KRUEGER, Political Economy of Policy Reform in Developing Countries, (Chapter 2 “Economic Policies in Developing Countries” & Chapter 4 “Models of Government”) (1993), pp. 11-35, 53-73 (To be distributed).

DAVID KENNEDY, “The ‘Rule of Law,’ Political Choices and Development Common Sense,” in The New Law and Economic Development (D. Trubek and A. Santos, eds.) (2006), pp. 110-125.

CLASS 7

THE SEARCH FOR NATIONAL POLICY ALTERNATIVES

Required: CYPHER AND DIETZ, Chapter 10 (Strategy Switching and Industrial Transformation) pp. 280-302.

SM: ALICE AMSDEN, The Rise of “The Rest” – Challenges to the West from Late Industrializing Economies (2001), pp. 1-28.

Part III: The Rise of Neo-Liberal Development Theory and Practice After 1980

CLASS 8

A. NATIONAL BEST PRACTICE: EFFICIENCY, GETTING PRICES RIGHT AND INTEGRATION INTO THE WORLD ECONOMY

Required: **SM:** RHYS JENKINS, “Theoretical Perspectives,” in Industrialization and Development, (T. Hewitt, H. Johnson and D. Wield, eds.) (1992), pp. 151-165.

CYPHER AND DIETZ, Chapter 7 (The State as Development Agent) pp. 191-219.

CLASS 9

THE LEGAL CONTEXT FOR NEOLIBERAL POLICY MAKING: FORMALIZATION, STANDARDIZATION, PRIVATIZATION AND TRANSPARENCY

Required: **SM:** RICHARD A. POSNER, “Creating a Legal Framework for Economic Development,” in Law and Economic Development (H. Schäfer and A. Raja, eds.) (2006), pp. 64-74.

SM: HERNANDO DE SOTO, The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else (Chapters 3 and 6) (2000), pp. 39-67, 153-206.

SM: DAVID KENNEDY, “Laws and Developments” (Manuscript 2002).

Part IV: The Implementation and Eventual Chastening of Neo-Liberal Theory and Policy

CLASS 10

THE WORLD BANK AND THE IMF: STRUCTURAL ADJUSTMENT

Required: CYPHER AND DIETZ, Chapter 17 (Institutions / Lending / Structural Adjustment) pp. 496-522.

Optional: CYPHER AND DIETZ, Chapter 16 (The Debt Problem and Development) pp. 471-489.

CLASS 11

THE LEGAL CONTEXT FOR WORLD TRADE: THE WORLD TRADE ORGANIZATION AND REGIONAL ECONOMIC INTEGRATION

Required: **SM:** HA-JOON CHANG, "Trade and Industrial Policy Issues," in Rethinking Development Economics (H. Chang, ed.) (2003), pp. 257-276.

SM: DANI RODRIK, "The Global Governance of Trade as if Development Really Mattered," in One Economics, Many Recipes Globalization, Institutions and Economic Growth (2007), pp. 213-236.

SM: BRIAN LANGILLE, "General Reflections on the Relationship Between Trade and Labor, Or: Fair Trade is Free Trade's Destiny," in Fair Trade and Harmonization, Prerequisites for Free Trade? (Bhagwati and Hudec, eds.) (1996), pp. 231-266.

CLASS 12

MULTINATIONALS AND THE WORLD CAPITAL MARKET: FOREIGN DIRECT INVESTMENT, TAXATION AND REGULATION

Required: CYPHER AND DIETZ, Chapter 14 (TNC's and Development) pp. 403-436.

SM: DAN DANIELSEN, "How Corporations Govern: Taking Corporate Power Seriously in Transnational Regulation and Governance" 46 *Harvard International Law Journal* 411 (2005), pp. 411-425.

CLASS 13

NEO-LIBERAL DISAPPOINTMENTS: ASSESSING MARKET SHOCK

Required: SM: JOSEPH STIGLITZ, “Whither Reform? Ten Years of Transition” (World Bank Annual Bank Conference on Development Economics: Keynote Address, April 28-30, 1999).

Part V: After Neo-Liberalism: Neo-Liberal Redux or Modest Experimentalism?

CLASS 14

A NEW “CONSENSUS IN WASHINGTON”

REQUIRED: SM: JOSEPH STIGLITZ, “The Post Washington Consensus Consensus” (manuscript 2004).

SM: DANI RODRIK, “Rethinking Growth Policies in the Developing World” (Manuscript 2004).

SM: TINA ROSENBERG, “The Free Trade Fix”, *The New York Times Magazine*, August 18, 2002.

SM: THE BARCELONA DEVELOPMENT AGENDA 2004 at http://barcelona2004.org/esp/banco_del_conocimiento/docs/CO_47_EN.pdf.

CLASS 15

SOCIAL DEVELOPMENT AND HUMAN RIGHTS: ALTERNATIVE CONCEPTION OR NEO-LIBERALISM CHASTENED?

Required: SM: AMARTYA SEN, Development as Freedom (1999), pp. 13-34, 111-145.

KERRY RITTICH, “The Future of Law and Development: Second-Generation Reforms and the Incorporation of the Social,” in The New Law and Economic Development (D. Trubek and A. Santos, eds.) (2006), pp. 203-252.

CLASS 16

FOREIGN AID, THE UN MILLENIUM GOALS AND THE SOCIAL COMPACT

CYPHER AND DIETZ, Chapter 17 (foreign aid) pp. 522-528.

SM: The UN Millennium Development Goals at <http://www.uni.org/millenniumgoals/>.

SM: JEFFREY D. SACHS, The End of Poverty (2005), pp. 266-287.

CLASS 17

THE RULE OF LAW AS A DEVELOPMENT STRATEGY

REQUIRED:

SM: VIRGINIA POSTREL, “The Decline of the Muslim Middle East and the Roots of Resentment,” *The New York Times*, November 8, 2001

SM: PISTOR AND WELLONS, The Role of Law and Legal Institutions in Asian Economic Development 1960-1995 (1999), pp. 63-111.

SM: JOHN K.M. OHNESORGE, “The Rule of Law, Economic Development, and the Developmental States of Northeast Asia,” in Law and Development in East and Southeast Asia (Christoph Antons, ed.) (2003), pp. 91-127 at <http://books.google.com/books?id=IU6fHK78k8sC&printsec=frontcover&dq=Christoph+Antons,+Law+and+Development+in+East+and+Southeast+Asia&ei=TaylSID4HpfEigGo45z7BA&sig=ACfU3U3HFEM1YWmLtxIUSFJDxWvQcSo0dw#PPA91,M1>.

CLASS 18

CRITIQUES OF RULE OF LAW INJECTION AS DEVELOPMENT

REQUIRED:

SM: TRUBEK AND GALANTER, “Scholars in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies in the United States,” 4 *Wisc. L. Rev.* 1062 (1974), pp. 1062-1102.

SM: FRANK UPHAM, “Mythmaking in the Rule of Law Orthodoxy.” Carnegie Endowment Working Paper, Rule of Law Series, Democracy and the Rule of Law Project, Number 30, September 2002.

ALVARO SANTOS, “The World Bank’s Uses of the “Rule of Law” Promise in Economic Development,” in The New Law and Economic Development (D. Trubek and A. Santos, eds.) (2006), pp. 253-300.

FROM GOVERNMENT TO GOVERNANCE—PROCESS, PARTICIPATION AND THE “PRIVATE” IN GLOBAL ORDERING

CLASS 19

NEW GOVERNANCE—THEORIES AND STRATEGIES

REQUIRED:

SM: DAVID M. TRUBEK AND LOUISE G. TRUBEK, “Hard and Soft Law in the Construction of Social Europe: the Role of the Open Method of Co-ordination,” *European Law Journal*, Vol. 11, No. 3 May 2005, pp. 343-364.

SM: ORLY LOBEL, “Rethinking Traditional Alignments: Privatization and Participatory Citizenship,” in Progressive Lawyering, Globalization and Markets: Rethinking Ideology and Strategy (Clare Dalton, ed.) (2007), pp. 209-232.

SM: A. CLAIRE CUTLER, VIRGINIA HAUFLE AND TONY PORTER, “Private Authority and International Affairs,” in Private Authority in International Affairs (A. Claire Cutler, Virginia Haufler and Tony Porter, eds.) (1999), pp. 3-20.

CLASS 20

CORPORATE GOVERNANCE AND GLOBAL GOVERNANCE

REQUIRED:

SM: DAN DANIELSEN, “Corporate Power and Global Order,” in International Law and its Others (A. Orford, ed.) (2006), pp. 85-99.

SM: PETER GOUREVITCH, “Corporate Governance: Global Markets, National Politics,” in Governance in a Global Economy: Political Authority in Transition (Miles Kahler and David A. Lake, eds.) (2003), pp. 305-331.

SM: AJIT SINGH, “The New International Financial Architecture, Corporate Governance and Competition in Emerging Markets: Empirical Anomalies and Policy Issues,” in Rethinking Development Economics (Ha-Joon Chang, ed.) (2003), pp. 377-402.

PART VI: CASE STUDIES

URBAN POLICY, LAW AND DEVELOPMENT: A COMPARATIVE PERSPECTIVE

CLASS 21

THE GLOBAL CITY IN LEGAL CONTEXT

REQUIRED:

SM: GERALD E. FRUG AND DAVID J. BARRON, “International Local Government Law,” 38 *Urban Lawyer* (2006), pp. 1-62.

CLASS 22
THE CITY IN THE WEST

REQUIRED:

SM: WILLIAM H. SIMON, The Community Economic Development Movement: Law, Business & the New Social Policy, (2001), pp. 41-48, 195-206, 219-227.

SM: “Reaching New Heights Trends and Achievements of Community-Based Development Organizations,” National Congress for Community Economic Development, 5th National Community Development Census, at <http://www.ncced.org/documents/NCCEDCensus2005FINALReport.pdf>.

SM: ANNE HABIBY, “Michael Porter on Essential Elements for Regional Competitiveness and the Role of the Inner City,” 6 Economic Development America (Spring 2004), http://www.eda.gov/ImageCache/EDAPublic/documents/pdfdocs/eidaspring2004_2epdf/v1/eidaspring2004.pdf.

SM: Inner City Economic Forum, “State of Inner City Economics: Fast Facts” (October 2003) at http://www.winwinpartner.com/_downloads/2004.pdf112603ICICdeck.pdf.

CLASS 23

THE CITY IN A DEVELOPING CONTEXT

REQUIRED:

SM: GEORGE PACKER, “The Megacity: Decoding the Chaos of Lagos,” *The New Yorker*, November 13, 2006, pp. 64-75.

SM: GEOFFREY I. NWAKA, “The Urban Informal Sector in Nigeria: Towards Economic Development, Environmental Health, and Social Harmony,” *Global Urban Development*, Vol. 1, Issue 1 May 2005 at <http://www.globalurban.org/Issue1PIMag05/Nwaka%20PDF.pdf>.

SM: RICARDO MONTEZUMA, “The Transformation of Bogota, Colombia, 1995-2000: Investing in Citizenship and Urban Mobility,” *Global Urban Development*, Vol. 1, Issue 1 May 2005 at <http://www.globalurban.org/Issue1PIMag05/Montezuma%20PDF.pdf>.

SM: MONA SERAGELDIN, ELDA SOLLOSO AND LUIS VALENZUELA, “LOCAL AUTHORITY-DRIVEN INTERVENTIONS AND PROCESSES,” UN Millennium Project, Task Force 8: Improving the Lives of Slum Dwellers, Center for Urban Development Studies, Graduate School of Design, Harvard University (October 2003) at <http://i2ud.org/documents/Serageldin,%20Local%20Authority-Driven%20-%20FINAL.pdf>.

RURAL DEVELOPMENT: A COMPARATIVE PERSPECTIVE

CLASS 24

RURAL DEVELOPMENT POLICY IN NORTH AMERICA

- REQUIRED:* **SM:** MICHAEL PORTER, ET. AL., “Competitiveness in Rural U.S. Regions: Learning and Research Agenda,” Institute for Strategy and Competitiveness, Harvard Business School, February 25, 2004 at http://www.eda.gov/ImageCache/EDAPublic/documents/pdfdocs/eda_5frural_5fregions_2epdf/v1/eda_5frural_5fregions.pdf.
- SM:** “The Community Resilience Manual A New Resource will link Rural Revitalization to CED Best Practice,” Centre for Community Enterprise, Community Resilience Project Team, Making Waves, Vol. 10, No. 4 at <http://www.cedworks.com/files/pdf/free/MW100410.pdf>.
- SM:** TODD POST, “Strengthening Rural Communities,” Bread for the World Institute, April 2005, No. 177 at <http://www.bread.org/learn/hunger-reports/hunger-report-pdfs/hunger-report-2005/April-05-Hunger-Report.pdf>.

CLASS 25

RURAL DEVELOPMENT POLICY IN THE DEVELOPING WORLD

- REQUIRED:* **SM:** “White Paper on Rural China’s Poverty Reduction I, II, and III,” at http://fenglish.peopledaily.com.cn/200110/15/eng20011015_82271.html (Home Page links to White Papers I, II and III).
- SM:** JOSEPH KAHN AND JIM YARDLEY, *The New York Times*, “The Great Divide” series, August 1, September 12, October 13, November 25, December 8, December 21, December 25 and December 31, 2004.
- SM:** Overview (including Amazon Pilot Project), Community Empowerment Network, <http://www.communityempowermentnet.org/cenweb/overview.php#amazon>.

CLASS 26
AGRICULTURE, LAW AND DEVELOPMENT

Required: CYPHER AND DIETZ, Chapter 11 (Agriculture and Development), pp. 330-372.

SM: BATES, “The Role of Markets in the World Food Economy,” in Governments and Agricultural Markets in Africa (GALE JOHNSON AND EDWARD SCHUH, eds) (1983) reprinted as “Political Economy of Agricultural Policy,” in GERALD MEIER, Leading Issues in Economic Development 6th Edition (1995), pp. 569-575.

SM: ALSTON, LIBECAP, MUELLER, “Property Rights and Land Conflict: A Comparison of Settlement of the US Western and Brazilian Amazon Frontiers”, in Latin America and the World Economy Since 1800 (John H. Coatsworth and Alan M. Taylor, eds.) (1998), pp. 55-84.