

EMORY UNIVERSITY
SCHOOL OF LAW
LAW, SUSTAINABILITY AND DEVELOPMENT SYLLABUS

Fall 2016

(Open to all law students)

Dr. Atieno Mboya Samandari

July 2016

Objectives and Scope:

This course examines the role of law and the legal system in economic and social development, with a focus on developing countries and emerging markets. It will explore how law, in its various forms, may bring about or impede development, however defined, and how development may affect or change the legal system of the country concerned. International organizations, foreign aid agencies, and local and international nongovernmental organizations have become extraordinarily active in this field, 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. The course will seek to challenge conventional approaches to law and development and enhance the appreciation of the point of view of developing countries and marginalized communities regarding development.

The course will begin by interrogating the concept of ‘development’ and some of the problems that it encompasses. We will then explore the role of law and how/whether it may be used as an effective instrument for developing and implementing solutions to development problems. The course will cover a broad (but by no means exhaustive) set of issues in law and development, taking a critical perspective and will include growing awareness of the importance of sustainability and of the role of law in promoting and safeguarding sustainable development.

COURSE SYLLABUS

Class 1: Introductory Overview of Development

- Philip McMichael, Development: Theory and Reality; in Development and Social Change – A Global Perspective, Chapter 1, Sage Publications, Thousand Oaks, California, 2012, pp.1-23
- Mariana Mota Prado, What is Law and Development?, Derecho, Revista Argentina de Teoria Juridica, Volumen 11 (Octubre de 2010)
- Jane Briant Carant (2016): Unheard voices: a critical discourse analysis of the Millennium Development Goals’ evolution into the Sustainable Development Goals, Third World

Quarterly, DOI: 10.1080/01436597.2016.1166944

Class 2: A History of Law and Development

- Patrick McAuslan, *In the Beginning was the Law... An Intellectual Odyssey*, 2004, *The Practice of Law and Development: Socio-Legal Approaches*. Paper 2
- William Twining, *Is Law Important? Law and the Millennium Development Goals*; in *Understanding Law from a Global Perspective*, Chapter 11, Cambridge Books Online, Book DOI: <http://dx.doi.org/10.1017/CBO9780511807374>

Class 3: Law in Development

- Paul Cook & Colin Kirkpatrick (1997) *Globalization, Regionalization and Third World Development*, *Regional Studies*, 31:1, 55-66, DOI: 10.1080/00343409750134782
- Daron Acemoglu, et al., *The Colonial Origins of Comparative Development: An Empirical Investigation*, 91 *American Economic Review* 1369-1401 (2001)
- Berkowitz et al., *The Transplant Effect*, 51 *American Journal of Comparative Law*, December 2003, pp.163-203

Class 4: International Development Assistance: The Role and Mandate of Multilateral Development Banks

- Tor Krevier, *The Legal Turn in Late Development Theory: The Rule of Law and the World Bank's Development Model*, *Harvard Intl. L. J.*, vol. 52, no.1, Winter 2011, pp. 287-319
- Rebecca M. Nelson, *Multilateral Development Banks: Overview and Issues for Congress*, Congressional research Service Report, 2015, at <https://www.fas.org/sgp/crs/row/R41170.pdf>
- Chris Humphrey, Stephany Griffith-Jones, Jiajun Xu, Richard Carey and Annalisa Prizzon, *Multilateral development banks in the 21st century Three perspectives on China and the Asian Infrastructure Investment Bank*, Overseas Development Institute, 2015 at <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/10097.pdf>
- Adriana E. Abdenur, *The New Multilateral Development Banks and the Future of Development: What Role for the UN?*, United Nations University Centre for Policy Research November 2015 at http://ssc.undp.org/content/dam/ssc/documents/news/2015/UNUCPR_TheNewMultilateralDevelopmentBanks_Abdenur_.pdf

Class 5: Globalization, Law and Development

- Philip McMichael (2009) *Contemporary Contradictions of the Global Development Project: geopolitics, global ecology and the 'development climate'*, *Third World Quarterly*, 30:1, 247-262
- Shalanda H. Baker, *Project Finance and Sustainable Development in the Global South*; in *International Environmental Law & The Global South*, Cambridge University Press, 2015, Chapter 16, pp. 338-355

- Sara L. Seck, Transnational Corporations and Extractive Industries; in International Environmental Law & The Global South, Cambridge University Press, 2015, Chapter 18, pp.380-398

Class 6: Human Rights and Development

- Yash Ghai, Universalism and relativism: human rights as a framework for negotiating interethnic claims; in William Twining, Human Rights: Southern Voices, Cambridge University Press, 2009 pp.109-156
- Katja Freistein & Bettina Mahlert (2016): The potential for tackling inequality in the Sustainable Development Goals, Third World Quarterly
- Thomas Pogge & Mitu Sengupta (2016) Assessing the sustainable development goals from a human rights perspective, Journal of International and Comparative Social Policy

Class 7: Gender, Law and Development

- Maria Mies, Patriarchy and accumulation on a world scale – revisited. (Keynote Lecture), Int. J. Green Economics, Vol. 1, Nos. 3/4, 2007 at http://collectiveliberation.org/wp-content/uploads/2013/01/PatriarchyAccumulationOnAworldscale_Revisited2005_MariaMies.pdf
- Chiongson, Rea Abada, Deval Desai, Teresa Marchiori, and Michael Woolcock, Role of Law and Justice in Achieving Gender Equality, World Development Report 2012 Gender Equality and Development, Background Paper, World Bank, 2011 at <http://siteresources.worldbank.org/INTWDR2012/Resources/7778105-1299699968583/7786210-1322671773271/Chiongson-law-and-justice.pdf>
- Sakiko Fukuda-Parr (2016) From the Millennium Development Goals to the Sustainable Development Goals: shifts in purpose, concept, and politics of global goal setting for development, Gender & Development, 24:1, 43-52
- Valeria Esquivel (2016) Power and the Sustainable Development Goals: a feminist analysis, Gender & Development, 24:1, 9-23

Class 8: Governance, Law and Development:

- Moore, Sally Falk, Treating Law as Knowledge: Telling Colonial Officers What to Say to Africans about Running “Their Own” Native Courts, 26 Law & Society Review (1992)
- Brian Z. Tamanaha, The Rule of Law and Legal Pluralism in Development; in Legal Pluralism and Development Scholars and Practitioners in Dialogue Edited by Brian Z. Tamanaha, Caroline Sage, Michael Woolcock, Chapter 2, Cambridge University Press, 2012, pp.34-49
- Kathleen Sexsmith & Philip McMichael (2015) Formulating the SDGs: Reproducing or Reimagining State-Centered Development?, Globalizations, 12:4, 581-596,

Class 9: Sustainability, Law and Development

- Rebecca Tsosie, Climate Change, Sustainability and Globalization: Charting the Future of Indigenous Environmental Self-Determination, 4 *Envtl. & Energy L. & Policy J.* 188, 2009 also at <https://www.law.uh.edu/eelpj/publications/4-2/Tsosie.pdf>
- H. Patrick Glenn, Sustainable Diversity in Law; in *Legal Pluralism and Development Scholars and Practitioners in Dialogue* Edited by Brian Z. Tamanaha, Caroline Sage, Michael Woolcock, Chapter 6, Cambridge University Press, 2012, pp. 95-111
- Alberto D. Cimadamore (2016) Global justice, international relations and the Sustainable Development Goals' quest for poverty eradication, *Journal of International and Comparative Social Policy*, 32:2, 131-148

Class 10: Law and 'The Global Land Grab':

- Saturnino M. Borras Jr., Philip McMichael & Ian Scoones (2010) The politics of biofuels, land and agrarian change: editors' introduction, *The Journal of Peasant Studies*, 37:4, 575-592
- Philip McMichael (2013) Land Grabbing as Security Mercantilism in International Relations, *Globalizations*, 10:1, 47-64
- Chidi Oguamanam, Sustainable Development in the Era of Bioenergy and Agricultural Land Grab, in *International Environmental Law & The Global South*, Cambridge University Press, 2015, Chapter 11, pp. 237 - 255

Class 11: Rethinking Development – The Role of Law

- Carl J. Circo, Does Sustainability Require a New Theory of Property Rights? 58 *U. Kansas L. Rev.* 91, 2009 also at https://kuscholarworks.ku.edu/bitstream/handle/1808/20139/3_Circo_Final.pdf?sequence=1
- Philip McMichael and Karuna Morarji, Development and Its Discontents; in *Contesting Development – Critical Struggles for Social Change*, by Philip McMichael (Ed.), Taylor and Francis 2010 pp.233-241

Class 12: Student Group Presentations

Class 13: Student Group Presentations

Class 14: Student Group Presentations