Basic Overview

Using the case study method, this seminar examines the role of law and legal systems in the economic and social development of developing nations, emerging markets, and countries in transition. It explores how law may both inhibit and foster change and the ways that legal institutions may be organized to achieve national goals. It first considers the nature of law, the nature of development, and the theoretical relationships of law to the development process. It then explores the links between law and development through case studies on foreign investment, governance, judicial reform, and the rule of law, among others. Particular emphasis is placed on the international financial architecture, including the international financial institutions of the world and their efforts to respond to debt crises as they have arisen, the role of privatization and nationalization with development, and the role of foreign investment in emerging capital markets, among others.

Desired Learning Outcomes

• Demonstrate a sophisticated understanding of law and development as a branch of international law, with strong inter-disciplinary elements from economics, philosophy and political theory.
• Explain and assess the different top-down and bottom-up approaches to law and development, as well as the strengths and weaknesses of the international financial architecture in promoting development.
• Evaluate whether there is a human right to development, and if so, what that means in practical terms.
• Demonstrate critical reasoning and writing skills in in-class debates, a reflective journal on the case studies discussed during the semester and a research paper.
• Create new ways of thinking and solving problems associated with law and development.

Assessment Methods

10% - participation in in-class discussions

20% - reflective journal on the case study assigned for each class (except for the first class) and a critique of another student’s work each week. Each journal entry must be no more than 400 words and be uploaded onto the relevant Trunk assignment folder by Tuesday 8pm the night
before class. Please refer to the guidelines below relating to the content of these reflective journal entries. Trunk then will assign each student someone else’s journal entry to critique (which must be no more than 150 words) and score (which score will have no impact on the actual grade for this assessment item). The critique must be submitted before 4pm on the day of class. You will be assessed on all of your reflective journal entries and critiques, although I will pay particularly attention to the two journal entries and two critiques you designate (by email to me by May 1) as your best. Late entries and critiques will not be accepted.

60% - a research paper between 4,000 and 6,000 words on a topic to be agreed upon with me. The topic must relate to law and development, although it is not limited to topics covered in class or in the readings. Please refer to the guidelines below for further instructions. Papers must be uploaded to the relevant Trunk assignment folder before May 3 at 11:59pm sharp. Late papers will receive a penalty of half a letter grade for each day they are late, starting at midnight May 4. In other words, please submit your paper ahead of time.

10% - presentation of an advanced, somewhat polished draft of your research paper in class on April 19 or April 26. The duration of the presentation will depend on the number of students in the course, but it probably will be between 5-10 minutes.

(Note: word counts include everything but the table of contents, bibliography and appendix, if these have been included; papers, reflective journal entries and critiques must be written on an individual basis, although you can consult anyone and any materials you like as long as you properly acknowledge the materials and people your rely upon - refer to http://uss.tufts.edu/arc/writingresources/plagiarism.asp).

Reading Materials
Required Reading:
• RUMU SARKAR, INTERNATIONAL DEVELOPMENT LAW: RULE OF LAW, HUMAN RIGHTS, AND GLOBAL FINANCE (Oxford University Press, 2009). Copies are available at the Tufts bookstore. Everyone needs her or his own copy.
• 10 case studies.
• Other materials placed on Trunk.

Reference Materials (all on reserve):
• ACEMOGLU, DARON, & JAMES ROBINSON, WHY NATIONS FAIL (2012).
• ALSTON, PHILIP, & MARY ROBINSON (eds.), DEVELOPMENT AND HUMAN RIGHTS: TOWARDS MUTUAL REINFORCEMENT (2005).
• BRADLOW, DANIEL D., & DAVID B. HUNTER (eds.), INTERNATIONAL FINANCIAL INSTITUTIONS AND INTERNATIONAL LAW (2010).
• CORDONIER SEGGER, MARIE-CLAIRE, ET AL. (eds.), SUSTAINABLE DEVELOPMENT IN WORLD INVESTMENT LAW (2011).
Be sure to regularly read a good newspaper in order to keep up with world events and current affairs.

Teaching and Reading Schedule (subject to change)

I intentionally have assigned relatively few required readings in order to free up more time for creative and critical thinking and writing. I also want you to have time to do your own research on the topics to be discussed, with the hope that you use the footnotes within the textbook and the reserved reference materials as a guide to your exploration. Nevertheless, I reserve the right to assign more or different outside readings at least a week before the next class, with the understanding that I try to keep the weekly assigned readings to approximately 80-90 pages, which seems overwhelmingly reasonable for a graduate-level course. I also will update the teaching schedule with information about guest lecturers as they confirm their travel plans with me.

I. January 18, 2017 – Introduction to Law and Development

- Sarkar pages 1-30 (you can read this textbook chapter after case; please read the rest before class)
- DARON ACEMOGLU & JAMES ROBINSON, WHY NATIONS FAIL 1-5 (2012).
- The Federalist No. 51 (James Madison).
- Sarkar pages 33-73
- Optional Reading – Brian Z. Tamanaha, *The Rule of Law and Legal Pluralism in Development*, in *LEGAL PLURALISM AND DEVELOPMENT* 34-49 (Brian Z. Tamanaha et al. eds. CUP, 2012)

- Sarkar pages 75-109
- Case Study – International Development Law Organization Leaflet (2016) and IDLO website www.idlo.int (critically evaluate the organization and its programs in light of the readings and the course discussions up until now)

IV. February 8, 2017 – International Development Law: Substantive Principles (Taxonomy, Enforcement, Establishing an Appellate Board)
- Sarkar pages 110-153

- Sarkar pages 155-189

VI. March 1, 2017 – The Rule of Law: A Projectized Approach – Administration of Justice (Different Forms of Justice and Different Mechanisms of Justice, Good Governance)
• Sarkar pages 189-197

VII. March 8, 2017 – A Human Right to Development? (Exploring Different Perspectives)
• Sarkar pages 199-254
• Case Study – *Righting Wrongs*, THE ECONOMIST, Aug. 16, 2001

• Guest Lecturer: Tobias M.C. Asser Jr., Assistant General Counsel, World Bank and International Monetary Fund (retired) (TBC)
• Sarkar pages 257-297

IX. March 29, 2017 – International Borrowing – Global Financial Contagion and Resolving Debt Crises
• Guest Lecturer: Anna Y. Chytla, Deputy General Counsel, World Bank
• Sarkar pages 297-332
• Articles of Agreement of the International Bank for Reconstruction and Development
• B.S. Chimni, *International Financial Institutions and International Law: A Third World*
X. April 5, 2017 – Privatization (Nationalization v. Privatization, Changing the Role of the State, Privatization Strategies, The New Face of Nationalization)

- Guest Lecturer: Rumu Sarkar, General Counsel, Millennium Partners
- Sarkar pages 333-391
- Case Study – In Russia, Privatization Can Mean Selling One State-Owned Company to Another, Oct. 22, 2016

XI. April 12, 2017 – Emerging Capital Economies (Structuring Capital Markets in Developing Countries, Foreign Investment in Emerging Capital Markets)

- Guest Lecturer: Ana-Mita Betancourt, General Counsel, Multilateral Investment Guarantee Agency, World Bank Group
- Sarkar pages 393-441

XII. April 19, 2017 – Presentations

XIII. April 26, 2017 – Presentations and Concluding Remarks

Research Paper Guidelines

This research paper of 4,000 to 6,000 words is intended to allow you to develop an idea or theme you find particularly interesting through the course readings and discussions. The research paper must be thesis driven, with the amount of description being kept to a minimum (only that which is necessary to understand your argument). The thesis must be original. For guidance on developing a thesis statement, refer to the following links:

http://writingcenter.fas.harvard.edu/pages/developing-thesis
http://www.writing.utoronto.ca/advice/planning-and-organizing/thesis-statements
The easiest way to get a poor grade for your research paper is to not have a thesis, so spend some time reviewing these links if you are not familiar with thesis statements. (FYI: the second easiest way to get a poor grade is to turn the paper in late and/or to go over or under the word limit stated above.)

The research paper can deal with anything related to law and development, not just those topics covered in class and in the readings. All research paper topics must be cleared with the professor, hopefully sooner rather than later, but no later than February 15, 2017. I am more than happy to discuss possible topic ideas with you and to answer your questions, although I will not give you a research topic, as that would undermine the learning process.

Be sure to consider the relevant primary and secondary sources and to critically analyze how it relates to your thesis. Be sure to cite that literature in footnotes (any citation format will be fine, as long as it is consistent and provides the necessary information for me to find the source). Also be sure to anticipate counter-arguments to your thesis and respond to them. Do not hide the weaknesses in your arguments but rather address them in an open manner. Your ultimate conclusion is not as important as the reasoning you provide to support that conclusion.

Finally, be sure to write creatively and persuasively, with as few language mistakes as possible. Structure also is important, with the proper use of titles and subtitles, as well as transitions and summaries between sections, so that the reader easily can follow your argument. The end goal with this assessment method (besides the ability to demonstrate deep learning) is to have a research paper of publishable quality, which can act as a writing sample for future employers and one that you can take pride in. Please refer to the following article for an excellent writing guide: Pamela Samuelson, Good Legal Writing: Of Orwell and Window Panes, 46 University of Pittsburgh Law Review 149-169 (1985).

There is no reason why all of you cannot publish your paper from this course, thereby disseminating your ideas and participating in the greater public debate on these issues. I will do my best to help you in that endeavor, both during and after the course. As publishable quality is the ultimately goal with the research paper, I will attempt to give feedback on proposals, outlines and drafts you send me before April 28, at which point I probably would be inundated with drafts and you probably would not have enough time to incorporate my suggestions. This should create an incentive for you to work on this research paper sooner rather than later. As a disclaimer, I will aim to give you feedback within a week (and hopefully much sooner), although my return rate will depend on how many of you give me outlines and drafts to review. Please continue to work on the paper while I am reviewing your work. Please note that I will give priority to outlines and drafts that I am reading for the first time. Please also note that I will read all final papers with fresh eyes, which means that I will not consider your earlier drafts or the changes you made with those earlier drafts when assessing the final version.

Reflective Journal Guidelines

The reflective journal entries and critiques are intended to encourage you to develop your own critical and creative thoughts on the topics presented in the readings and discussions through the context of a particular case study, so it is important that these comments are your own work. That said, you may consult others and other materials as long you properly acknowledge...
their influence on you. Please refer to Tufts’ plagiarism standards at
http://uss.tufts.edu/arc/writingresources/plagiarism.asp for more information.

Your reflective journal entries will be assessed (in addition to the basic grade descriptors below) on whether you can:

(i) identify the key point(s) that make the case study relevant to the topic being discussed in the course readings and discussions;

(ii) critically analyze how the case study helps or hurts the points being made in the readings and discussions;

(iii) fit the case study and your analysis into a broader context, either concerning development more generally, international law generally or international relations generally; and

(iv) write in a creative and persuasive manner.

Specific questions may be posed on Trunk in connection with the case study, which you will be expected to address. The critiques of the journal entries should keep these points and the grade descriptors in mind. Examples of the best and more problematic journal entries will be shared the week after submission (with identifying information being removed, of course).

You likely will find that 400 words is not that much for a maximum word limit. Do not waste words (and time) on providing background information for the case study. Assume the reader is familiar with the case study, with international law and with international relations theory generally. While you certainly are not required to refer to outside materials in writing these reflective journal entries, I have found that doing so often leads to a much more sophisticated analysis.

**Basic Grade Descriptors**

The grade descriptors for all assessment methods associated with this course essentially follow Bloom’s Revised Taxonomy of the Cognitive Domain. For more information on this taxonomy, see www.edpsycinteractive.org/topics/cognition/bloom.html. This can be broken down into the following categories and grades:

Excellent/Very Good (A+/A) (100-97, 96-93): this grade means that the examiner felt that the work product contained a strong creative element, such as developing a new approach to solving a particular problem or a new way of thinking about a particular issue, with high-quality analysis and evaluation also being apparent in the work;

Good (A-) (92-90): this grade means that the examiner felt that the work product contained a strong evaluative element, such as an insightful critique of the current understanding of a particular problem or issue, with high-quality analysis also being apparent in the work;
Average (B+/B) (89-87, 86-83): this grade means that the examiner felt that the work product contained a strong analytical element, such as an interesting comparison of cases or approaches, with high-quality application of principles from the in-class discussions and readings being apparent in the work;

Borderline satisfactory (B-) (82-80): this grade means that the examiner felt that the work product contained a demonstration of the ability to apply the knowledge from the course to a new situation, with strong understanding of that knowledge being apparent in the work;

Pass (C+/C) (79-77, 76-73): this grade means that the examiner felt that the work product showed an understanding of the knowledge introduced in the course, with the ability to recall information being apparent in the work;

(C-) (72-70): this grade means that the examiner felt that work product showed the ability to recall information and to describe information accurately and in an interesting way;

Pass (D+/D) (69-67, 66-65): this grade means that the examiner felt that the work product showed the ability to describe information but in an inaccurate or uninteresting way; and

Fail (F) (below 65): this grade means that the examiner felt that the work product failed to show the minimum amount of expected originality and ability to describe information.

Given this information, you should be able to choose your grade ahead of time by deciding on the way you approach the task at hand. That said, whether you ultimately get your desired grade will depend on the examiner’s assessment of your performance using the descriptors set out above.