

EMLE 2023: Course Outline for *Law and Economics of Development: Foundations*

Law and legal institutions are widely seen as crucial for economic development. Discussions about development in India often end up at one or the other legal obstacle. Stagnant industrialisation is blamed on restrictive land acquisition, insolvency and labour laws and poor-quality infrastructure. The last, in turn, is blamed on restrictive land acquisition laws, corruption and, more recently, poorly designed public private partnerships. The inability of farmers to obtain adequate price for their produce is attributed to restrictive government regulations. Indeed, economic and legal reforms seem to be two sides of the same coin in most developing countries and international institutions such as the World Bank routinely stress legal reforms to promote development. Legal optimism that pervades policy debates is also associated with the belief that developing countries ought to learn from the experience of economically successful countries and introduce legal reforms to unlock their economic potential. This course helps understand the theoretical and empirical foundations of the optimism and its policy and socio-economic implications. It also helps understand the mutually constitutive relationship between law, (legal) institutions, and political economy and reimagine the relation between law and development in a more pragmatic manner from the perspective of developing countries.

This course begins with a discussion on formal models of economic growth before introducing debates within economics and law on the relationship between law and (economic) development. It then complicates the narrative using historical studies and case studies on the diversity of international experience regarding legal interventions to promote development. The course hopes to encourage students to go beyond formal models and multi-country/period statistical analyses and study the interface between law and economy as if both space and time, i.e., the historical context, mattered.

UNIT I

This unit discusses the abrupt emergence of the development discourse at the beginning of the Cold War and of 'Law and Development' in economics after the end of the Cold War. We will begin with a discussion of the genealogies of the idea of development and locate it on the broader canvas of modernisation theory followed by a brief history of economic growth. This history is essential to understand the redefined role of the West in the postcolonial world and the narrowing down of the idea of development after the Second World War as well as the more recent attempts since the 1980s to reclaim the broader idea of development from its dominant growth-centric economic interpretations. We will then discuss the broad explanations of economic growth and introduce some of the early models of economic growth and rural-urban migration including Harrod Domar, Solow, Lewis and Harris-Todaro models that had a deep impact on development policymaking across the world.

Lecture 1: Introductory module

We will begin with a discussion on the genealogies of the idea of development, a brief history of economic growth, a discussion of determinants of economic growth and models of balanced and unbalanced growth.

Arndt, H. W. (1981), "Economic Development: A Semantic History," *Economic Development and Cultural Change*, 29: 3, pp. 457-466

Acemoglu, D. (2009), *Introduction to Modern Economic Growth*, Princeton University Press. (Chapter 4)

Nayyar, Deepak (2013), *Catch Up: Developing Countries in the World Economy*, Oxford University Press.

Supplementary readings

Lepenies, P. (2016), *The Power of a Single Number - A Political History of GDP*. New York: Columbia University Press.

Engerman, D. (2018), *The Price of Aid: The Economic Cold War in India Book*. Harvard University Press.

Esteva, G. (2010), 'Development.' In *The Development Dictionary: A Guide to Knowledge as Power*, ed. W. Sachs, pp. 1–23. London: Zed Books.

Banerjee, Abhijit V. and Esther Duflo (2007), "The Economic Lives of the Poor," *The Journal of Economic Perspectives*, Vol. 21, No. 1, pp. 141-168.

Kiely, R. (2006), "Modernisation Theory," in David Clark (Ed), *The Elgar Companion to Development Studies*.

Lecture 2-4: Models of Growth

These lectures will introduce the Solow, Lewis and Harris-Todaro models

Debraj, Ray (2014), *Development economics*, Princeton University Press. (Chapters 3, 10)

Acemoglu, D. (2009), *Introduction to Modern Economic Growth*, Princeton University Press. (Chapter 2)

Lecture 4-5: Role of Law in Developing Countries

Basu, Kaushik (2015), *The Republic of Beliefs: A New Approach to 'Law and Economics,' World Bank Policy Research Working Paper No. 7259*

Basu, Kaushik (2003), "The Economics and Law of Sexual Harassment in the Workplace," *The Journal of Economic Perspectives*, Vol. 17, No. 3, pp. 141-157

UNIT II

This unit is divided into four broad parts. It first maps a wide range of discussions of the relation between law and development. It locates law and development on a larger historical canvas that helps understand both the diverse expectations and frustrations vis-à-vis the usefulness of law as an instrument of development. It will help understand the growing skepticism vis-a-vis the dominant efficiency centric understanding of law and development promoted by mainstream economics and the efflorescence of alternative approaches that call for reimagining law and development.

The second part of this unit discusses the relationship between finance and growth and law and finance to understand the legal origins hypothesis that defined the mainstream approach to the question of law and development and informed the approach of leading international bodies such

as the World Bank. This discussion helps understand the theoretical and empirical foundations of the post-Cold War legal reforms in the developing world.

The third part engages with critiques of the legal-origins hypothesis, i.e., the orthodox view, and examines alternative explanations of the law-growth nexus. Specifically, we will engage critiques that use the history of state formation, colonial legal history, colonial institutional history and the distribution of political and economic power in society as points of departure.

The unit concludes with an examination of the belief that societies are amenable to instrumental change and that the effects of intervention can be controlled. The discussion begins with complexity and law and economics approaches that question the simplistic assumptions about the efficacy of legal reforms and then adds examples from various countries to buttress this point. We then go back to the critical perspectives discussed earlier in the course and make a case for a more inclusive and pragmatic approach to law and development.

Lecture 6-7: The Law-Development nexus

Posner, Richard A. (1987), 'The Law and Economics Movement,' *American Economic Review*, Vol. 77, No. 2, pp. 1-13.

Carothers, Thomas (1998), 'The Rule of Law Revival,' *Foreign Affairs*, March/April Issue, pp. 95-106.

Trubek, David M. and Alvaro Santos (2008), 'Introduction: The Third Moment in Law and Development Theory and the Emergence of a New Critical Practice,' in *The New Law and Economic Development: A Critical Appraisal*, pp. 1-18.

Davis, Kevin E. and Michael Trebilcock (1999), 'What Role do Legal Institutions Play in Development?' *International Monetary Fund Conference on Second Generation Reforms*, November 8-9 (pp. 10-32).

Davis, Kevin E. and Michael Trebilcock (2008), 'The Relationship between Law and Development: Optimists Versus Skeptics,' *The American Journal of Comparative Law*. pp. 895-946.

Supplementary readings

Posner, Richard A. (1998), 'Creating a Legal Framework for Economic Development,' *World Bank Research Observer*, Vol. 13, pp. 1-11.

Lecture 7: Law, finance and growth (and Legal origins)

Levine, Ross (1997), 'Financial Development and Economic Growth: Views and Agenda,' *Journal of Economic Literature*, Vol. 35, No. 2, pp. 688-726.

La Porta, R., Lopez-de-Silanes, F. and Shleifer, A. (2008), 'The economic consequences of legal origins,' *Journal of Economic Literature*, Vol. 46, pp. 285-322.

Lecture 8: Law, Finance and Economic Growth (Legal Origins and its critiques)

Kuran, Timur (2003), 'The Islamic Commercial Crisis: Institutional Roots of Economic Underdevelopment in the Middle East,' *Journal of Economic History*, Vol. 63, No. 2, pp. 414-446.

Schäfer, Hans-Bernd and Alexander J. Wulf (2014), 'Jurists, Clerics, and Merchants: The Rise of Learned Law in Medieval Europe and its Impact on Economic Growth,' *Journal of Empirical Legal Studies*, Vol. 11, No. 2, pp. 266-300.

Lecture 9: Law, Finance and Economic Growth (Legal Origins and its critiques)

Aguilera, Ruth V. and Cynthia A. Williams (2009), 'Law and Finance: Inaccurate, Incomplete, and Important,' *BYU Law Review*, Vol. 6, No. 1, pp. 1413-1434. (Lecture 8)

Charron, Nicholas, Carl D., and Lapuente, V. (2012), 'No law without a state,' *Journal of Comparative Economics*, Vol. 40, pp. 176–193.

Maggio, Giuseppe, Alessandro Romano and Angela Troisi (2014), 'The Legal Origin of Income Inequality,' *The Law and Development Review*, Vol. 7, No. 1, pp. 1-21.

Lecture 10: Law, Finance and Economic Growth (Legal Origins and its critiques)

Berkowitz, D., Katharina Pistor and Jean-Francois Richard (2003), 'The Transplant Effect,' *American Journal of Comparative Law*, Vol. 51, pp. 163-203.

Klerman, Daniel M., Paul G. Mahoney, Holger Spamann, and Mark I. Weinstein (2011), 'Legal Origin or Colonial History?' *Journal of Legal Analysis*, Vol. 3, No. 2, pp. 379-409.

Roe, Mark and Jordon Siegal (2009), 'Finance and Politics: A Review Essay Based on Kenneth Dam's Analysis of Legal Traditions in The Law-Growth Nexus,' *Journal of Economic Literature*, Vol. 47, No. 3, pp. 781-800.

Lecture 11: Country case studies

East Europe: Rapaczynski, Andrzej (1996), 'The Roles of the State and the Market in Establishing Property Rights,' *Journal of Economic Perspectives*, Vol. 10, pp. 87–103.

India: Armour, John and Priya Lele (2009), 'Law, Finance, and Politics: The Case of India,' *Law & Society Review*, Vol. 43, No. 3, pp. 491-526.

India: Singh, Ram (2012), 'Inefficiency and Abuse of Compulsory Land Acquisition: An enquiry into the way forward.' *Economic and Political Weekly*, Vol XLVII (19), pp. 46-53.

China: Allen, Franklin, Jun Qian, and Meijun Qian (2005), 'Law, finance, and economic growth in China,' *Journal of Financial Economics*, Vol. 77, pp. 57–116.

Japan: Upham, Frank (2002), 'Mythmaking in the Rule of Law Orthodoxy,' *Carnegie Endowment Working Papers*.

Indonesia: Cheryl W. Gray (1991), 'Legal Process and Economic Development: A Case Study of Indonesia,' *World Development*, Vol. 19, pp. 763-777

Singapore: Harding, Andrew and Connie Carter (2003), 'The Singapore Model of Law and Development: Cutting Through the Complexity,' in John Hatchard and Amanda Perry-Kessaris (eds.), *Law and development: Facing complexity in the 21st century*, pp. 191-206.

Italy: Bandiera, Oriana (2003), 'Land Reform, the Market for Protection, and the Origins of the Sicilian Mafia: Theory and Evidence,' *Journal of Law, Economics, and Organization*, Vol. 19, pp. 218-244.

Somalia: Leeson, Peter T. and Claudia R. Williamson. 2009. 'Anarchy and Development: An Application of the Theory of Second Best,' *The Law and Development Review*, Vol. 2, No. 1, Article 4.

Lecture 12: Reimagining law and development

Sen, Amartya (2000), 'What is the Role of Legal and Judicial Reform in the Development Process?' *The World Bank Legal Review*.

Prasse-Freeman, Elliot (2015), "Conceptions of Justice and the Rule of Law," in David I. Steinberg (ed.), *Myanmar: The dynamics of an evolving polity*, Boulder: Lynne Rienner Publishers, pp. 89-114.

Hartwell, Christopher A. (2017), 'Understanding "Development": Insights from Some Aspects of Complexity Theory,' *Homo Oeconomicus*, Vol. 34, pp. 165-190.

Cohen, Amy (2009), 'Thinking with Culture in Law and Development,' *Buffalo Law Review*, Vol. 57, pp. 511-586.

Brian, Tamanaha (2011), 'The Primacy of Society and the Failures of Law and Development,' *Cornell International Law Journal*, Vol. 44, pp. 209-247.

Assessment plan

Lectures 1-5

(a) End-semester examination (40 per cent)

Lectures 6-12

(a) 2 Review essays (1000 words): Review a paper or book chapter that is part of the reading list (including supplementary readings). If you want to review something that is going to be discussed in Lecture *N*, you have to email me your review before that lecture starts. Your file should be named as follows: *Your name_Last name of the first author.doc.* (2x10 per cent)

(b) An in-class assignment (10 per cent)

(c) End-semester examination (30 per cent)