

LAW AND DEVELOPMENT

MAY 2026

INSTRUCTOR: KATHARINA PISTOR

COURSE DESCRIPTION

Law is widely thought of as a key ingredient, if not a prerequisite to economic development. “Good institutions lead to good economic outcome” is how the World Bank put it in one of its reports. In this rendering, economic development means growth, measured typically by GNP or GDP – the gross domestic product or the gross national product (the latter adding what national might have produced abroad).

The aim of the class is to enable students to develop a critical understanding of how law is deployed for different and at times conflicting aims; for the conditions that make law an effective mode of governing social relations; and for the many ways in which aspects of the law are captured by some and repurposed to advance their interests often at the expense of others.

Prerequisites: No formal prerequisites. Some familiarity with law and legal institutions as well as social science literatures is expected.

Grading and Exam: The exam will be a proctored exam. The exam will count for $\frac{3}{4}$ of your grade. Oral participation (cold call and volunteering) will count for $\frac{1}{4}$ of your grade.

ADMINISTRATIVE MATTERS

CONTACT & OFFICE HOURS

Office: JGH 719 Email: kpisto@law.columbia.edu Office phone: 212-854-00698

Office hours: **TBD**

CLASS TEACHING GOALS & CLASS MANAGEMENT

TEACHING GOALS

The goal of this class is to introduce students to the comparative and historical study of law and legal institutions. How law relates to economic development has been debated for centuries and is receiving renewed attention in the context of the recent revival of the critique of capitalism. The question invites us also to consider how to conduct comparative and inter-disciplinary research of law and legal institutions and how to link this debate to matters of domestic as well as geopolitical power relations. Students are encouraged to question the readings, inquire about the quality of the argument and/or the evidence presented, and pose critical questions about them.

RULES OF CONDUCT

Learning is done best when we listen to each other and listen to views that differ from your own. Critique lies at the heart of academic inquiry and will be central to this class: critique of the literature, of case law, of conventional wisdom, and of each other's views, but the emphasis will be on critique that is reasoned and respectful of dissent. We will also address historical and contemporary circumstances in which discrimination and racism is present – sometimes rampant at others hidden. These matters are painful and often difficult to discuss. I am asking all of us to be mindful of the experiences and memories each of us brings to these debates, to permit ourselves to be distraught, to take position, and to name injustice where we find it.

CLASS PARTICIPATION

To ensure broad participation, I will employ a system of “warm” calling. Every time we meet, a panel of students enrolled will be on call. The size of panels and frequency of being “on call” will be determined when the final class size is known.

COURSE WORKS

Relevant materials for this course will be posted online.

SYLLABUS

WHAT IS DEVELOPMENT?

The first part of this course will unpack the “development conundrum”. What is development, why has growth become central to the development debate and policy practice, how does growth relate to climate change, inequality, and how will less developed countries be impacted by the call of “degrowth” are central the questions that we will address in this part of the class.

SESSION 1: DEVELOPMENT AND HOW TO ACHIEVE IT (5/5/2026)

The first session of this class presents you three different takes on development presented by different economists whose work has been deeply concerned with development. They tackle not only what “is” development”, why their concept of development is critical, and last but not least, how to achieve it. Which perspective do you find most convincing and why?

READINGS

Amartya Sen. 2006. Development as Freedom in India.

Dani Rodrik. 2000. Institutions for High-Quality Growth.

Alexander Gerschenkron. 1962. Economic backwardness in comparative perspective.

WHAT IS LAW?

“What is law?” is a question that has occupied philosophers and legal theorists for millennia. We will not dive deeply into these theoretical debates but instead focus on the sociological phenomenon of law as social ordering device. The rise of the nation state correlated with the evolution of national and international law. The origins of law, however, are much earlier. Neither is it necessarily the case that law is necessarily derived from or dependent on the nation state. In addition to these fundamental questions, this part of the course will examine the role of law under colonialism and its relation to capitalism, before returning to the question of the need or desirability for normative foundations of the law that are consistent with principles of social justice.

SESSION 2: LAW & OTHER INSTITUTIONS (5/7/2026)

Legal theorists have not wrestled with the question what is law? Whether only just law is law (and what this is), or whether anything that is promulgated as law by a ruler or legislatures is deemed law, the positivists suggest. We will not revisit these debates here, but instead try to understand contemporary debates about the function of law in society. Both make extensive references to scholarship in legal sociology and legal theory. For purposes of our class discussion, you should focus on the following questions: How do the two articles define law? What is the source of legal authority? Why does coercion feature so prominently in Hodgson's argument and why do Hadfield and Weingast believe that they can dispense with it for the purpose of defining law? Lastly, how would you define law?

READINGS:

North, Douglas. *Institutions and Institutional Change, and Economic Performance* (1990) (excerpts)

Hodgson, G. M. (2009). "On the Institutional Foundations of Law: The Insufficiency of Custom and Private Ordering." *Journal of Economic Issues* 43(1): 143-166.

Gillian Hadfield and Barry Weingast. 2012. What is Law? A Coordination Model of the Characteristics of Legal Order. *Journal of Legal Analysis* 4(2):471-515.

THE ROLE OF THE STATE

The development of formal law as a system of social ordering has gone hand in hand with the rise of the modern nation state. There is no specific date, when the modern nation state emerged, but many associated it with the end of the 30-year war in 1648 when the Peace Treaty of Westphalia was signed (thus, the "Westphalian" nation state). In this part of the course, we will explore how states have helped, hindered, and shaped "development", the priorities they have set and how this has affected the well-being of their residents.

SESSION 3: THE ROLE OF THE STATE IN DEVELOPMENT (5/12/2026)

Not all states are alike and neither have all states played comparable roles in the process of socio-economic development. Peter Evans offers a classification of different states in the past WWII era. To explore the traction of this classification, we will take at what role states have been assigned under the Washington Consensus and what role they play in what Gabor calls the Wallstreet Consensus.

READINGS

Peter Evans. 1989. *Predatory, Developmental, and Other Apparatuses: A Comparative Political Economy Perspective on the Third World State*.

John Williamson. 1990. *What Washington Means by Policy Reform*

Daniela Gabor. 2021. *The Wallstreet Consensus*

LAW AND DEVELOPMENT IN CAPITALISM

SESSION 4: LAW AND CAPITALISM (5/19/2026)

Capitalism is often described as an economic system. However, one might just as well describe it as a juridical (Grewal) or legal (Pistor) regime. One reason for this is that it is difficult, if not impossible, to separate the organization of markets or the economy from the underlying institutions, which constitute them. Another is that capitalism relies heavily on the law that codes capital. This session will explore the relation between the law and the economy in capitalist system. As you read the materials, consider what arguments might speak against the imbrication of law and the economy in capitalism, or what arguments might defend the neutrality of law even in systems that display inequality and hierarchy.

READINGS:

Piketty, Thomas (2024). Capital in the 21st Century. Introduction

Grewal, David (2014). Review: Capital in the 21st Century. *Harvard Law Review*.

Pistor, Katharina (2019). Chapter 1 Empire of Law, in *The Code of Capital*.

SESSION 5: THE BIRTH OF THE MODERN BUSINESS CORPORATION (5/21/2026)

Capital and labor are the two factors of production. According to Marx, these labels also connote the power relation between capitalists and the working class. For the evolution of capitalism and the accumulation of capital, corporations have played an outsized role. In this session, we will trace the evolution of corporation with special emphasis on their role in the transnational realm

READINGS:

David Ciple. 2013. Beyond Public and Private; Toward a Political Theory of the Corporation.

Doreen Lustig. 2020. Veiled Power. Chapter 2: "Setting the Scene: The Facilitative Failure of the Chartered Company".

Julian Arato. 2015. "Corporations as Law Makers", *HILJ*

LABOR RELATIONS UNDER CAPITALISM

Labor relations have changed considerably under capitalism – from slave ownership to factory workers to independent contractors, not to forget the sizeable informal workforce, especially in the care and agricultural sectors, and increasingly in the gig economy.

SESSION 6: ORGANIZING THE WORKPLACE

Most people spend most daylight (and some even night) hours at work and many in large organizations, private or public bureaucracies that are hierarchical and leave little if any room for participation. The economic theory of the firm justifies this state of affairs by explaining the very existence of the firm in a world that is otherwise organized by the market principle by the fact that hierarchy may be more cost effective than horizontal relations (Coase, 1937). In contrast, democratic theory asserts the principle of government *by the people*, which implies at least some minimal form of participation. Since the arrival of mass work in factories, advocates have pushed for the democratizing for work, a topic that has received renewed traction in recent times, which is the theme of this session. A new report published by government of Spain has just come out that uses a long-forgotten provision of the constitution to advance the idea of democracy at the workplace.

READINGS

Meinard Keynes. 1930. Economic Possibilities for our Grandchildren

Ronald Coase. 1937. The Nature of the Firm, *Economica*.

Isabella Ferrera et al. 2026. Comprehensive Summary of the Final Report of the International High Level Expert Committee on “Democracy at the Work”. The full report can be found [here](#).

SESSION 7: RECONFIGURING CAPITALISM

Legal theorists have long grappled with the question of what amount to a “just” legal order and why the rights-based approach that lies at the heart of modern constitutional order has done so little to secure economic justice for all. This session suggests that law in general and private law in particular should serve social justice. To ensure that it does, its normative foundations would have to shift, however, from a (negative) rights based to a system that enables all to live the lives they have reason to value (Sen). This “capabilities” approach was jointly developed by Amartya Sen and Martha Nussbaum. In this session, we will take a closer look at the conclusions that Nussbaum draws from it for thinking about just law, and what lessons this might hold for capitalism.

READINGS:

Pistor, Katharina (2025). “Beyond Capitalist Law”, in *The Law of Capitalism and How to Transform It*, Chapter 7.

Aaron Benanav, “Beyond Capitalism” Part I, *The New Left Review*, 2025