 ATENEO DE MANILA UNIVERSITY

SCHOOL OF LAW

COURSE SYLLABUS

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| **Course Title:** | Law and Economic Development |  | **Instructors:**  Dr. George V. Carmona  Atty. Cecille Mejia |
| **No. of Units:** | 2 (3 for LLM students) |  |  |
| **Semester/ SY:** | 2nd / 2013-2014 |  |  |
| **Department/Track:** | Law and Economics |  |  |

**I. COURSE DESCRIPTION AND OBJECTIVES**

**Course Description and Objectives**

The course has three (3) major objectives. The first is to study law and economics as an approach to the study of law – i.e. how the application of economic theory can be used to examine the formation, structure, processes, and economic impact of law and legal institutions. Introductory discussions on the dominant schools of thought (i.e. Chicago Law and Economics, Public Choice Theory, Institutional Law and Economics) in this field will be made to familiarize the students with the concept.

Second, the course seeks to look into the role of law, including legal and judicial institutions, in economic development. It is generally accepted that efficient law and legal institutions foster economic development, while dysfunction in the legal system inhibits economic growth. This part of the course will provide a survey of this reemerging field of “law and development.” Special attention will be devoted to the experience of the Philippines taking into account Supreme Court pronouncements involving economic policies, court inefficiencies and efforts to reform the judiciary.

**Upon completion of this course, students will be able to critically analyze, the following issues:**

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| **⚫** | Basic legal theories |
| **⚫** | Methodology and limitations of the economic approach to law: Efficiency vs. Equity |
| ⚫ | Relationship between the legal systems (law, legal and judicial institutions) and economic development. |
| ⚫ | Judicial and legal dysfunction and its cost to the economy. |

**Methodology**

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| --- | --- | --- | --- | --- | --- |
| ✓ | case-analysis | ✓ | individual/group reports and presentations | | |
|  | clinics – apprenticeships, internship, externships |  | mooting | | |
| ✓ | debates | ✓ | participatory class discussion | | |
|  | essay writing | ✓ | practical class exercises: ………………………… | | |
|  | field visits (e.g. court visits, observations) |  | reflection/ meditation | | |
|  | film showing, with processing |  | research and interviews | | |
|  | hypothetical cases- problem solving |  | seminars, conference, workshops | | |
|  | inter-disciplinary study/discussions | ✓ | simulations/role play (of actual legal practice) | | |
| ✓ | lecture-recitation |  | law teaching/training experience (e.g. street law) | | |
|  | legal writing: brief-making, contract drafting, etc. |  | |  | | --- | | Others: | | | |
| ✓ | guest lectures, with dialogues |  | | Others: |
| ✓ | group/team projects |  | | Others: |

**II. COURSE OUTLINE and MATERIALS\***

\*The professors reserve the option of amending the reading list and assignments as exigencies warrant.

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| Session 1 | Introduction: Law and Economics |
|  | Required Readings/Assignments:   1. *An Introduction to Law and Economics,* Chapter 1 in Law and Economics, by Robert Cooter and Thomas S. Ulen, 6th Edition. 2. *Benchbook on Law and Economics* (Draft; Submitted to PHILJA), Ma. Lourdes Sereno, (2003). 3. *United States v. Caroll Towing Co.,159 F. 2d 169.*   Recommended Readings:  *Law and Economics: A Comparative Approach to Theory and Practice (Chapters 1 and 2),* by Robin Paul Malloy (1990). |
| Session 2 | Introduction: Law and Economics  Required Readings/Assignments:   1. *Chicago Law and Economics*, Chapter 2 in Economics and the Law: From Posner to Modernism, by Nicholas G. Mercuro and Steven G. Medema 2. *Rational Choice Theory in Law and Economics* by Thomas S. Ulen |
| Session 3 | Introduction: Law and Economics  Required Readings/Assignments:   1. *Original Institutional Economics and New Institutional Economics*: Revisiting the Bridges (Or the Divide) by Jairo J. Parada. 2. *Institutional Economics*, Chapter 5 in Economics and the Law: From Posner to Modernism, by Nicholas G. Mercuro and 3. *Neo-Institutional Economics*, Chapter 6 in Economics and the Law: From Posner to Modernism, by Nicholas G. Mercuro and Steven G. Medema. |
| Session 4 | Law and Development: Overview  Required Readings/Assignment:   1. *Governance: Sound Development Management*, Asian Development Bank. 2. *Law and Development Movement*, The World Bank, <http://www1.worldbank.org/> publicsector/ legal/ldmovement.htm. 3. *What is Good Governance*, United Nations Economic and Social Commission for the Asia and the Pacific, http://www.unescap.org/huset/gg/governance.htm. 4. [*Law and Economics of Development*](PART%20TWO\Law%20and%20Economics%20of%20Development.pdf)by Edgardo Buscaglia, *Hoover Institute, Stanford Universit,* [*http://allserv.rug.ac.be/~gdegeest/0580book.pdf*](http://allserv.rug.ac.be/~gdegeest/0580book.pdf)*.* 5. [*Creating a Legal Framework for Economic Development*](PART%20TWO\Creating%20a%20Legal%20Framework%20for%20Economic%20Development%20by%20Richard%20Posner.pdf)by Richard A. Posner, <http://www1.worldbank.org/publicsector/legal/LegalFramework.pdf>.   Recommended Readings:   1. [*What Role Do Legal Institutions Play in Development*](file:///C:\Users\cmejiac\Documents\Cecille\Ateneo\Law%20and%20Econ\SS2013-14\PART%20TWO\What%20Role%20Do%20Legal%20Institutions%20Play%20in%20Development.pdf)by Kevin Davis and Michael J. Trebilcock, Faculty of Law, University of Toronto (October 20, 1999). 2. *Economic Growth and Judicial Independence: Cross Country Evidence Using a New Set of Indicators* by Lars P. Feld and Stefan Voigt. 3. *Economics and Justice: Concepts and Empirical Evidence* by Armando Castelar Pinheiro, <http://www.ifb.com.br/english/documentos/castelarIngles17_10.pdf>.. 4. *The Primacy of Society and the Failures of Law and Development*, Brian Z. Tamahana, 44 Cornell Int’l L.J. 209 (2011) |
| Session 5 | Law and Development: Regional Case Study: Role of Legal Systems in Asian Economic Development  Required Readings/Assignments:   1. [The Role of Law and Legal Institutions in Asian Economic Development 1960-1995](PART%20TWO\Role%20of%20Legal%20and%20Judicial%20Institutions%20in%20Asian%20Economic%20Development%20Executive%20Summary.pdf) (pp. 1 to 20 and 263 to 285) by Katharina Pistor and Philip Wellons (1999), Oxford University Press). 2. [The Role of Law and Legal Institutions in Asian Economic Development: The Case of Korea](PART%20TWO\Role%20of%20Legal%20Insitutions%20in%20Econ%20Development%20in%20Korea.pdf); Patterns of Change in the Legal System and Socio-Economy 3. [The Role of Law and Legal Institutions in Asian Economic Development: the Case of China](PART%20TWO\Role%20of%20Legal%20and%20Judicial%20Institutions%20in%20Asian%20Economic%20Development%20The%20Case%20of%20China.pdf). Patterns of Change in the Legal System and Socio-Economy. 4. [The Role of Law and Legal Institutions in Asian Economic Development: the Case of India](PART%20TWO\Role%20of%20Legal%20Insitutions%20in%20Econ%20Development%20in%20India.pdf). Patterns of Change in the Legal System and Socio-Economy. 5. [Private Sector Assessment: Philippines](../PART%20TWO/Private%20Sector%20Assessment%20for%20the%20Philippines.doc) by Asian Development Bank, July 2004. |
| Session 6 | Law and Development: Sectoral Case Study  Required Readings/Assignments:   1. [*Intellectual Property Rights and Economic Development*](PART%20TWO\Intellectual%20Property%20Rights%20and%20Economic%20Development.doc)by Keith E. Maskus, Professor of Economics, University of Colorado, Boulder. 2. [*Judicial Corruption in Developing Countries: Its Causes and Economic Consequences*](PART%20TWO\Judicial%20Corruption%20in%20Developing%20Countries%20Its%20Causes%20and%20Economic%20Consequence.pdf)by Edgardo Buscaglia, Fellow, Hoover Institution. 3. *Bankruptcy and Economic Development* |
| Session 7 | Law and Development: Right to Development  Required Readings/Assignment:   1. UN General Assembly Resolution 41/128 4 December 1986 2. Vienna Declaration and Programme of Action, A/CONF.157/23, 12 July 1993 |
| Session 8 | The Role of the Legal and Judicial System in Economic Development in the Philippines: General Required Readings/Assignment:   1. *What is the Role of Legal and Judicial Reform in the Development Process* by Amartya Sen, [http://www4.worldbank.org/legal/legop\_judicial/ljr\_ conf\_papers/Sen.pdf](http://www4.worldbank.org/legal/legop_judicial/ljr_%20conf_papers/Sen.pdf) 2. ***Judicial Reform and Economic Development: A Survey of the Issues*** by Richard E. Messick, The World Bank Research Observer, <http://www.worldbank.org/research/journals/wbro/obsfeb99/judicial.htm> |
| Session 9 | The Role of the Legal and Judicial System in Economic Development in the Philippines: Economic Policymaking in the Philippines Required Readings/Assignment:   1. *The Policy Process of Economic Policies* in Judicial Review of Economic Policies: Implications on Policymaking and Implementation by Dr. Cheselden George V. Carmona, UP National College of Public Administration and Governance (2003). 2. *The Power of Judicial Review and Economic Policies: Achieving Constitutional Objectives* by Ma. Lourdes Sereno, policy paper submitted to the Philippine Judicial Academy for the USAID-AGILE-PHILJA Law and Economics Project (2001). |
| Session 10 | The Role of the Legal and Judicial System in Economic Development in the Philippines: Judicial Review of Economic Policies Required Readings/Assignment:   1. *Judicial Review of Economic Policy* by Pacifico Agabin, Philippine Law Journal, 1997. 2. *The Supreme Court in Economic Policy Making* by Edgardo Angara, 1 Policy Review, January 1994. 3. *Conclusion and Recommendation* in Judicial Review of Economic Policies: Implications on Policymaking and Implementationby Dr. Cheselden George V. Carmona, UP National College of Public Administration and Governance (2003). 4. *The Politics of Judicial Review Over Executive Actions* by Pacifico Agabin in Unconstitutional Essays, 1996. 5. *Manila Prince Hotel vs. GSIS, et al*., G.R. No. 122156, February 3, 1997. 6. *Garcia vs. Board of Investment, G*.R. No. 88637. September 7, 1989 7. *Garcia vs. Board of Investment,* G.R. No. 92024, November 9, 1990 8. .*Garcia vs. Corona, et al*., G.R. No. 132451, December 17, 1999. 9. *Tanada vs. Angara,* G.R. No. 118295, May 2, 1997. 10. *Tatad vs. Viray,* GR 124360 & 127867, November 5, 1997. 11. *Oposa et al. v. Factoran, Jr. et al.* GR No. 10108, July 30, 1999. 12. *Francisco Chavez vs. Public Estates Authority and Amari*, May 6, 2003, G. R. No. 133250. 13. *Agan vs. PIATCO*, May 5, 2003, G.R. No. 155001. 14. *ERB vs. MERALCO,* November 15, 2002, G.R. No. 141314. 15. *MMDA vs. JANCOM,* January 30, 2002, G.R. No. 147465. 16. *J.G. Summit Holdings vs. CA,* September 24, 2003. 17. *COMELEC vs. PHOTOKINA,* September 18, 2002*,* G.R. No. 151992; 18. *AKBAYAN, et al. v. Aquino, et al.,* G.R. No. 170516. July 16, 2008. 19. Gamboa v. Secretary of Finance, G.R. No. 176579, June 28, 2011; Heirs of Gamboa v. Teves. G.R. No. 176579, October 9, 2012. |
| Session 11 | The Role of the Legal and Judicial System in Economic Development in the Philippines: The State of the Philippines Judiciary Required Readings/Assignment:   1. *Governance Assessment of the Philippines: Legal and Judicial Sector* by Dr. Cheselden George V. Carmona, ADB (2002). 2. *Diagnostic Studies of the Philippine Judiciary* by Karen Hudes et al. World Bank (1999). |
| Session 12 | The Role of the Legal and Judicial System in Economic Development in the Philippines: The Economic Cost of Judicial DysfunctionRequired Readings/Assignment:  1. *Justice and the Cost of Doing Business* by Ma. Lourdes Sereno, Emmanuel De Dios, Docoy Capunoand Edgardo Campos (2003). 2. *An Analysis of the Developmental Impact of Judicial Actions: A Case for Legal and Judicial Reforms* by Dr. Joseph Capuno (2001). |
| Session 13 | The Role of the Legal and Judicial System in Economic Development in the Philippines: Reform EffortsRequired Readings/Assignment:  1. *Action Program for Judicial Reform*, Supreme Court (2001). 2. *Blueprint of Action for the Judiciary,* Supreme Court (1999). |

**III. COURSE REQUIREMENTS AND GRADING SYSTEM**

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| **Course Requirements** | **Description** | **Grade Breakdown** |
| Group/Class Exercises |  | 30% |
| Papers\* | In lieu of examinations, students will be required to submit two papers not exceeding 5 pages on topics that will be assigned by the professors. | 30% |
| Class Participation |  | 40% |
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\* For LLM students, the paper requirement will constitute 100% of their grades. LLM students are however encouraged to participate in class discussion.

**IV. COURSE POLICIES**

You are expected to read all the assigned readings. You must read items listed under “Reading” for each session. Items listed under “Additional Readings” are for those of you who wish to read further. As much as practicable, these readings will be available in the library, where you can photocopy them. Most of them can be downloaded from the class e-group.

Sessions will generally follow a lecture-seminar format but we strive to be creative in tackling the various topics identified in this outline. As such, your active involvement during class discussion, group works and class exercises is expected. Considering that recitation and class participation constitute 80% of your final grade, you must exert extra effort to have your participation noticed and appreciated. Submission of assigned papers, reports or pleadings, as may be needed, will form part of your recitation grade.

You are required to have an email address and the class will form an e-group. Interaction and discussion in this e-group will be taken into account in the determination of your final grade. Relevance and civility are required in the e-group discussion.

Depending on the level of class participation, mid-term and/or final examinations may be given during the designated examination week. Presence during these exams is obligatory, as I do not give make up exams, save for highly exceptional reasons.

**V.** **CONTACT AND OTHER INFORMATION**

**The best way to contact us is through any of the following email addresses and telephone numbers:** [george\_carmona@carmona.com](mailto:george_carmona@dai.com), 0908-8861672**;** [cecille.mejia@gmail.com](mailto:cecille.mejia@gmail.com), 0908840762.