

## Development

Forthcoming in *Concepts in International Law*, ed. Jean d'Aspremont and Sahib Singh  
(Edward Elgar, 2017)

Pre-proof version

Onur Ulas Ince

Assistant Professor of Political Science

School of Social Sciences

Singapore Management University

90 Stamford Rd., Level 4

178903, Singapore

### Abstract:

This essay examines the institutional, discursive, and political economic dimensions of the postwar regime of development. In addition to discussing the twentieth-century approaches to development, such as modernization, dependency, basic needs, and human development, it offers an extended treatment of the ideological antecedents of "development" in natural law theories on property, classical political economy, late-industrialization, and the Mandate System. It is argued that the central axis connecting the development regime to its historical antecedents is a particular politics of universalism that belongs to the history of capitalism and European colonial empires.

## **Introduction**

“Development” belongs to that family of concepts (like “democracy” or “nation”) whose ideological sway and institutional efficacy bear a paradoxically inverse relation to the clarity of its definition. In the relatively short history of its circulation amongst policymakers, academics, and lay publics, the term has been variously associated with national industrialization, poverty reduction, satisfaction of basic human needs, integration into global markets, and increasing the choices and capabilities of citizens. Interlacing these diverse and even contradictory agendas is a secular belief in the possibility of improving material conditions of human life through conscious human agency, in which law has been accorded a privileged place as at once a potent instrument and an objective in its own right.<sup>1</sup> “Improvement of material conditions” might appear to be a protean, even vacuous, principle but it is the very indeterminacy of this aspiration that gives the “temptation of development”<sup>2</sup> a universalistic thrust and renders it “shapeless but ineradicable. Its contours are so blurred that it denotes nothing – while it spreads everywhere because it connotes the best of intentions.”<sup>3</sup>

This chapter builds on critical scholarship in international law, political economy, and intellectual history to pry open the self-evidence of the idea of development and reveal the multiple and contested meanings of the term as they have shifted in response to the political, economic, and legal transformations of the twentieth-century global order. The following inquiry is informed by two major theoretical frameworks. The first of these is the Foucauldian conceptualization of postwar development regime as a “discursive formation,” which rests on representational strategies and institutionally-networked production of expert knowledge that construct “development” and

“underdevelopment” and open up a wide array of interventions in the social fabric of target populations. This perspective allows one to map the trajectory of postwar development discourse as the “rise, diffusion, transformation, and disintegration of ideas, theories, concepts, and paradigms concerning law and social change ... the varied and changing ideas *about* the nature of development and its projected connections to law and legal institutions, both domestic and international.”<sup>4</sup> The second framework draws upon Marxian categories of critical political economy, which exposes the mutations of the development discourse and its economic language in response to the historical reconfigurations of global capitalist relations. Beyond the Keynesian and neoliberal phases of postwar capitalism, but these reconfigurations extend to the emergence and consolidation of capitalism at least since the late-seventeenth century through upheavals and convulsions including slavery, industrialization, imperialism, and war. This *longue durée* view has the merit of alerting one to the historical role of colonialism and imperialism in shaping the economic structures, political institutions, juridical languages, and civilizational categories that would endure beyond formal decolonization and form the institutional-ideological terrain on which the proponents of development in the postwar period – international lawyers, statesmen, economists, and policy experts of various stripes – would advance their claims.

The project of historicizing development therefore necessarily directs us beyond the putative “age of development,”<sup>5</sup> conventionally traced back to Harry Truman’s inaugural speech on 20 January 1949, and requires locating its antecedents in early-modern international law, political economy, and Enlightenment philosophy. Such a historical mode of inquiry is indispensable for critically exposing the ability of the

development discourse to continuously reinvent its provisional goals and policy instruments while maintaining the idea of “development” as the perpetual solution to its own failures.<sup>6</sup> This resilient “illusion of novelty”<sup>7</sup> depends above all on the active erasure of the history of colonialism and imperialism behind the politically and economically uneven international order that has set the stage for the discourse of development and authorized certain states, institutions, classes, and forms of knowledge as the proper agents and guardians of the postwar development regime.

The following examination proceeds in two parts. The next section delves into the early-modern history of colonialism and capitalism to identify key ideological and institutional elements that later structured the parameters of development once it came to its own in Truman’s famous Point Four.<sup>8</sup> Of these historical antecedents, four are accorded privileged status in their capacity to inform the postwar development discourse: early-modern legal theories of occupation, classical political economy, late-industrialization, and the Mandate System, all set against the expanding world of European colonial empires. This section aims at discerning those intellectual and political economic elements without which a critical engagement with the development discourse remains incomplete.

The second section turns to the more familiar postwar history of development and critically surveys contending political and economic agendas in which the idea took on contradictory meanings while it maintaining its position at “the center of an incredibly powerful semantic constellation.”<sup>9</sup> Placing these moments in the framework of “imperialism of decolonization,”<sup>10</sup> I underline their ideational continuities and breaks with the historical elements outlined in the first section. Of these continuities and breaks,

two that cohere into a contradictory politics of universalism set the tenor for this chapter. The crucial discontinuity is decolonization and the demand placed on international law by the decolonized to “transcend its imperial origins in the name of the universal.”<sup>11</sup> The continuity that hems in the radical thrust of this demand, on the other hand, is the equally universalistic yet imperial language of “humanity,” which, while proclaiming that the earth is mankind’s common heritage, consigns effective control over the earth’s resources to particular people who exploit them most efficiently in the benefit of humanity.

The chapter concludes with a brief discussion of how different understandings of this politics of universalism and imperialism continue to color the recent controversy between radical developmentalist and postdevelopmentalist arguments for transcending the present regime of development. While the age of development might be crumbling, it is argued, the politics of universalism that once energized it is still alive and well.

### **Development before “Development”**

The European tradition of international law and specifically “the law of occupation” offers the departure point for locating the politics of universalism at the core of the discourse of development. In a recent study, Andrew Fitzmaurice has established the centrality of the law of occupation to Western legal and political thought as the doctrine in and through which competing conceptions of property, civil society, and sovereignty have been negotiated.<sup>12</sup> While this doctrine extends back to Roman law, the critical turn in its genealogy occurred in the seventeenth-century when the law of occupation was for the first time infused by a modern economic content, thereby evolving into a dual discourse of legal right to property and of universal economic progress.

Conducted in the language of natural law, the legal aspect of this debate revolved around the question of establishing particular property rights in the earth to which humanity was assumed to hold a common right for purposes of self-preservation.<sup>13</sup> The most important disagreement was between those theorists (like Hugo Grotius and Samuel Pufendorf) who predicated the creation of property on compact and agreement, and those (most notably John Locke) who repudiated compact theory in favor of a non-contractual conception of appropriation through unilateral individual acts.

The dispute went beyond scholastic disagreement, since it grew out of the rivalry between European states for overseas colonial possessions and trade routes,<sup>14</sup> itself animated by the progressive commercialization of European economies. The controversy over legitimate “occupation of territory” was entwined with the European competition to seize land, most importantly in the Atlantic basin that was rapidly evolving into the hub of capital accumulation through its plantation economies, settler colonialism, and the triangular trade of slaves, colonial commodities, and European manufactures. At this historical juncture, John Locke, himself a colonial administrator of the English state, elaborated the seminal non-consensual theory of appropriation to justify the English occupation of American territories against its European contenders and Native Americans.<sup>15</sup> Against compact theories of property, which could recognize diverse forms of exploiting the earth as equally valid grounds of title, Locke asserted the agricultural improvement of land by individual labor as the necessary and exclusive basis of private property.<sup>16</sup> Not content with distinguishing English “occupation” from “conquest,” Locke extolled the *universal* benefits of private appropriation through labor. While the earth was given to mankind in “common,” Locke argued, its private appropriation and

improvement increased its productivity and thereby augmented the “common stock of mankind.” Secondly, Locke introduced the use of money and commodification as means to overcome the natural limits to accumulation and unleash the productive powers of labor. To this point, he adduced the example of the “day-laborer in England” who was better fed, clad, and lodged than the “king of a large and fruitful territory” in America.<sup>17</sup> Finally, Locke claimed that Native Americans lacked the conception and the institutions of sovereignty (*imperium*) because the absence of private property amongst Native Americans and consequently their primitive economy obviated the necessity for political society.<sup>18</sup> The absence of property and sovereignty amongst Native Americans, Locke concluded, suggested that they still dwelled as “tenants” in the natural common, rendering America open to appropriation by the Europeans and especially the English. Native Americans therefore not only lacked true proprietorship in America but they also stood to benefit from the occupation and efficient utilization of natural resources by the English.

Here, we glimpse the politics of universalism at the heart of the development discourse. This is the “notion that states, and indeed humanity itself, could only preserve themselves through the exploitation of the earth’s resources to which all people had a common right, but to which particular people gained superior and particular rights through their acts of exploitation or occupation.”<sup>19</sup> Extruding the law of occupation through a rudimentary labor theory of value and commerce, Locke formulated a secular, materialistic paradigm of historical progress keyed to economic growth, which demoted non-capitalistic modes of exploiting natural resources as primitive and inferior. The legal aspect of the argument was as crucial as the economic. Locke emphatically admitted that,

as full members of humanity, Native Americans possessed rights and obligations under natural law. At the same time, he refused that their political organization amounted to sovereignty and denied them the right to exclude European incursion into the New World. This is a textbook example of what Antony Anghie has called the colonial “dynamic of difference,” which he argues was constitutive of the uneven topography of international law as comprising sovereign (European) and non-sovereign (non-European) entities, in contrast to the Westphalian conception of a system between sovereign states.<sup>20</sup> As elaborated below, the question of who can exercise legitimate control over natural resources, and then in whose name, would remain a burning question of international law, erupting time and again in the debates surrounding the Dual Mandate, the New International Economic Order, and contemporary transnational land acquisitions in the Global South.

Locke’s proto-developmental evolutionary paradigm, with its labor theory of value and emphasis on productionism, was carried to a new level of sophistication by eighteenth-century theories of classical political economy. It has been noted by both liberal and Marxian approaches that the discipline of economics forms the master-language of the development discourse, whose intellectual precursors are located in the pantheon of Adam Smith, Jeremy Bentham, David Ricardo, Thomas Malthus, and John Stuart Mill.<sup>21</sup> There is indeed little doubt that the classical preoccupation with productivity, economic growth, market efficiency, and dynamic gains from trade have shaped the language of development, notwithstanding its various mutations through the Keynesian Revolution, the hybrid field of “development economics,” the so-called “dethronement of GNP,” and the “basic needs approach.”<sup>22</sup> However, classical political



economy was as much a discourse of progress from savagery to civilization as it was a theory of division of labor, trade, growth, rents, wages, and profits. The most elaborate expression of this marriage of economy and civilization instantiated in the Scottish Enlightenment's stadial theory of history, in which the advancement from the "rude" and primitive state of savagery to the "polished" and advanced "commercial society" was hitched to ever more complex and efficient modes of appropriating and transforming natural resources. As European colonial expansion accelerated into the "first age of global imperialism"<sup>23</sup> through settlerism in the Americas and the increasingly militarized operations of the joint-stock companies in Asia, the stadial theory provided the template for Europeans to impose a socio-temporal order on the cultural diversity that unfolded through colonial encounters and locate themselves in this diversity. The imagination of a global topography in which a universal and progressive human history could be conceived was forged in the crucible of the early-modern European empires, with the attendant languages of political economy and jurisprudence that reproduced the dynamic of difference between savagery and civilization.

Particularly illustrative in this regard is Adam Smith's thought. First, in his famous theory of the division of labor, Smith refined and systematized the Lockean labor theory of value and instituted it as the main principle of productivity and the mainspring of the wealth of nations. Secondly, by predicating the level of division of labor on the "extent of the market," he articulated at once an analytic and normative idea of "global commerce" as the prime mover of economic development. Economic development, in turn, was part and parcel of the journey towards increasing social complexity and refinement that Smith and his contemporaries associated with civilization (though Smith

himself used the terms “savage,” “barbarous,” and “civilized” as primarily non-normative, descriptive categories). In the *Wealth of Nations*, Smith recounted the exodus of Europe from feudal barbarism into modern civilization as a narrative of the commercialization of the countryside.<sup>24</sup> Yet, what had succeeded in Europe had failed elsewhere. While Smith admitted India to the circle of civilization, he noted that due to lack of commercial intercourse, Africa and Central Asia “seem in all ages of the world to have been in the same barbarous and uncivilized state in which we find them at present.”<sup>25</sup> Similarly, the “savages in North America” were only comparable to the state of the Britons prior to Roman invasion.<sup>26</sup> Thus echoing Locke’s famous proclamation that “in the beginning, all the world was America,” Smith aligned the present of the non-Europeans with Europe’s past, prefiguring the historicism of the discourse of development and underdevelopment. The temporal discrepancy was economically indexed this time to the material wellbeing of an English peasant that was superior to that of “an African king, the absolute master of the lives and liberties of ten thousand savages.”<sup>27</sup> Historical progress through division of labor, productivity, growth, and civilization by the powers of *doux commerce* hinged on integration to the global market, which called for policies of free trade to promote an *international* division of labor based on the principle of absolute advantage.

Smith’s theory would prove to be a fecund resource for subsequent strains of liberal imperialism in the nineteenth century as well as for liberal-capitalist visions of development in the twentieth and twenty-first. The continuity in economic argument needs little elaboration, as the putative link between trade openness and economic growth has been a liberal refrain for the past two hundred years. Yet, Smith was as much a

theorist of jurisprudence as he was a political economist. Tying together Smith's arguments in *Wealth of Nations* and *Lectures on Jurisprudence* was a fundamental nexus between law and economy. Juridical notions and legal relations evolved in lockstep with socioeconomic complexity. Specifically, social progress through exchange and division of labor depended on a legal system that safeguarded property and enforced contracts. Even though Smith shied from positing a directional causality between law and economy, subsequent reformers, including international jurists, colonial administrators, and policymakers, would see in law and legal reform a formidable instrument of economic development and social progress. As discussed in more detail below, the most far-reaching and enduring mobilization of this idea would be the movement of "law and economic development" in the 1950s and 1960s, which, after a hiatus in the 1970s, has been revived under the mantle of good governance and the rule of law reform.

Shortly after Smith's ideas of free trade, upgraded by David Ricardo into a theory of comparative advantage, became economic orthodoxy and gained sway over European policy makers at the turn of the nineteenth century, it encountered resistance from quarters that denounced it as the ideological handmaiden of British "imperialism of free trade."<sup>28</sup> The threat was more real than perceived, as the British policy in the wake of the Napoleonic Wars aimed at turning Britain's colonial possessions as well as the independent nations of the Western Hemisphere and Continental Europe into satellite economies that served as producers of raw materials for the British industry and markets for its manufactured goods. To political economists and statesmen like Alexander Hamilton, Friedrich List, and Sergei Witte, pursuing free trade in a global capitalist order dominated by British industrial and financial supremacy portended peripheralization and

dependency for countries like the United States, Germany, and Russia, the living incarnation of which was the de-industrialization of India under the British rule. It is at this juncture that the problematic of “late-development” erupted into political economic discourse, more than a century before it became the all-consuming preoccupation of the decolonized nations. If a key aspect of the development discourse is to “catch up” with the West in economic terms, then we ought to accord the place of the first “developing nations” to the United States and Germany.

The centerpiece of nineteenth-century theories of late-development was national industrialization, and no one proved more influential in popularizing this agenda than the German political economist and publicist Friedrich List. In his germinal *National System of Political Economy*, List argued that Britain owed her industrial supremacy to centuries of active government policy of protection and *dirigisme*, the very policies that the British statesmen now tried to persuade other countries to abandon. This represented a strategy of “kicking away the ladder” of development and reducing the rest of the world to the quasi-colonial status of “hewers of wood and drawers of water for the Britons.”<sup>29</sup> Rebuking the classical mantra of global free trade, List proposed emulating the British example by adopting a national program of autonomous industrialization. The linchpin of this program was the promotion of infant industries through protective tariffs and government-sponsored infrastructure projects until they became globally competitive. Although List embraced free trade in principle, he held that the fruits of comparative advantage would equally accrue to all only under conditions of relative economic parity between trading parties. Economic performance, however, was only half of the story. List attributed a tremendous “civilizing” power to industry as the “mother and father of all

science, literature, the arts, enlightenment, freedom, useful institutions, national power and independence.”<sup>30</sup> Far from signaling a paradigm shift, List deepened the political economic content of the Enlightenment discourse of civilization, weaving his own stadial theory of development in which he placed Southern Europe alongside Asia in the lower rung of agrarian barbarism.<sup>31</sup> Crucially, in List’s writings, the odium of “backwardness” that was originally associated with colonies was transposed to the national countryside, which now emerged as the target of the “civilizing mission” of national development.

Finally, while List’s national developmentalism heralded the anti-imperial promise of meaningful independence and self-determination, its radical implications were curtailed by the very discourse of civilization and savagery he inherited from the Enlightenment tradition. National development *qua* industrialization, List maintained, was only possible for the countries of the “temperate zone” encompassing Europe and its settler offshoots, whereas the “torrid” territories were climactically destined to serve as agricultural hinterlands and markets for the former. Framed, once again, by the dynamic of difference, what started out as a critique of economic imperialism thus culminated in an agenda of uneven global division of labor, prefiguring what we today call the Global North and Global South. Perhaps more remarkably, the politics of universalism assumed an overtly international legal form in List’s proposal of a “World Trade Congress.” In the spirit of nineteenth-century liberal internationalism, the World Trade Congress would be a convention of the “civilized” (European and neo-European) nations for peacefully negotiating “how the common interests of the various nations can be best served,” including “regions and societies at different stages of economic development – such as industrialised, agrarian, colonial and primitive societies.”<sup>32</sup> List thereby entrusted the

common interests of humanity to the direction of its civilized vanguard. It should therefore come as no surprise that when anti-colonial intellectuals and politicians, such as Dadabhai Naoroji in India, adopted Listian ideas of national development, they did so on their own terms, and the first premise they discarded was the prescriptive division between the temperate and torrid zones.<sup>33</sup>

Although List did not live to see it, such a convention of “civilized” nations would eventually come into existence, bearing the “dual mandate” of promoting the welfare of “colonial and primitive societies” and developing their natural resources for the benefit of humanity. This was the Mandate System established by the Article 22 of the Covenant of the League of Nations (1919), whereby colonial powers were granted administrative responsibilities over the newly acquired territories under the auspices of the Permanent Mandate Commission (PMC).<sup>34</sup> The institutional and ideological contours of the Mandate System bore the imprint of the political and economic developments of the preceding three decades of “high imperialism.” At the 1884 Berlin Conference, regnant and aspirant colonial powers settled the political and legal methods of carving up Africa, ushering in a period of “indirect rule” marked by a shift from the international legal doctrine of “occupation of territory” to that of “occupation of sovereignty.”<sup>35</sup> The political economic matrix of high imperialism rested on, on the one hand, “export-led exploitation”<sup>36</sup> of the colonies through a combination of naked violence and the cooperation of native rulers, and on the other, a fierce competition for new markets for exporting metropolitan surplus capital and industrial products. The dynamics of capitalist imperial rivalry, critically analyzed by John Hobson, Rudolf Hilferding, V. I. Lenin, and

Rosa Luxemburg,<sup>37</sup> placed the European powers and their imperial trading blocs on the collision course of the World War I.

While the bitter lessons of imperial protectionism, combined with American pressure after the war, initiated a period of commercial “open door policy” in the governance of the mandate territories, the political economic matrix of high imperialism was further institutionalized and juridified under international law, this time parading under an assertive ideology of humanitarianism. Ostensibly distancing itself from the old imperial order, the Mandate System effectively “internationalized” the nineteenth-century colonial discourse of the civilizing mission.<sup>38</sup> Above all, it reiterated the politics of universalism that underwrote the exclusive European control of the natural resources in mandate territories which in principle remained the common heritage of mankind. Frederick Lugard, the former governor-general of Nigeria and member of the PMC, epitomized this humanitarian discourse in his *The Dual Mandate in British Tropical Africa*, where he wrote “while on the one hand the abounding wealth of the tropical regions of the earth must be developed and used for the benefit of mankind, on the other hand, an obligation rests on the controlling Power not only to safeguard the material rights of the natives, but to promote their moral and educational progress.”<sup>39</sup> The argumentative power of the “dual mandate” stemmed from its emphatically universal vision of development, which designated the entire humanity, especially the colonial populations, as the putative *stakeholders* of the integration of colonial land and labor to the global market, even as it authorized colonial powers as the commanding *shareholders* of the developmental project.

This ideological amplification was accompanied by a crucial shift in the modality of colonial governance away from law and sovereignty to sociology and economics. As Anghie has persuasively argued, the Mandate System brought into existence a massive apparatus of scientific knowledge production. Members of the PMC, as a disinterested body of colonial experts, reviewed and systematized reams of reports generated by the mandatory powers regarding their territories' progress in economic development, health, nutrition, and education.<sup>40</sup> Although bureaucratic probity and professionalism in colonial administration was not new, the Mandate System was unique in internationalizing expert knowledge as the culturally neutral standard for assessing the relative advancement of diverse colonial populations and for devising policy prescriptions and technologies of management. The language of economics supplanted "race" as the new ordering principle of the international hierarchy, further tightening the eighteenth- and nineteenth-century association between economic performance and civilization. By defining the problem of "backwardness" principally in the economic register and construing it as a technical problem to be solved through "governmental" techniques pivoting on the nexus between expert knowledge and institutional power,<sup>41</sup> the Mandate System laid the foundations of the postwar development regime.

### **The Age of Development**

As Anghie points out, "in terms of technologies of management" the true successors of the Mandate System were the Bretton Woods Institutions (BWI): the World Bank and the International Monetary Fund.<sup>42</sup> Although the BWI's original mission



concerned the economic reconstruction of Europe, they quickly assumed the mantle of development once Harry Truman announced

we must embark on a bold new program for making the benefits of our scientific advances and industrial progress available for the improvement and growth of underdeveloped areas. More than half the people of the world are living in conditions approaching misery. Their food is inadequate. They are victims of disease. Their economic life is primitive and stagnant. ... For the first time in history, humanity possesses the knowledge and skill to relieve suffering of these people.<sup>43</sup>

This statement performs three discursive moves that would set the tenor for the postwar development regime. First, it instated the binary of development-underdevelopment, and interpellated more than half of the world into recognizing themselves as underdeveloped. Second, invoking the cardinal tenets of classical political economy, it defined underdevelopment exclusively in economic terms, as a mute natural datum of scarcity and poverty. Third, echoing List, Truman cast development as a transitive process to be undertaken by conscious human direction with the aid of scientific rationality, expert knowledge, and industrial technology.<sup>44</sup> Finally, at the very moment it invoked “humanity” as the subject of development, it sanctioned the industrialized West to speak on its behalf.

For Truman’s interpellation to underdevelopment to work, his addressees had to answer the call, and they did. Sundhya Pahuja remarks that the newly independent states embraced the self-definition of “backwardness” without much scruple. The strictly economic designation of the term made it possible to uphold the newfound dignity of political sovereignty while externalizing deficiency onto the technical domain of exploiting natural resources.<sup>45</sup> In doing so, however, Third World countries also acquiesced in the institutional split between the political and the economic that was introduced by the Mandate System and entrenched by the bifurcation of postwar

international law framework into the UN and the BWI. The development paradigm articulated the recently acquired political equality with the existing conditions of economic inequality into an international system of hierarchy without exclusion. Expunging questions of material inequality from the ambit of politics, this accord delinked histories of colonialism from the newfangled discourse of development.<sup>46</sup> Such a sanitized notion of development appealed to postcolonial states, for they found their “distinctive content” and political legitimacy in the “universal function of ‘development’ of society as a whole.”<sup>47</sup> The power of this appeal, as noted by Gilbert Rist, was strikingly evidenced in the final communiqué of the Bandung Conference (1955), which, while putatively sowing the seeds of Third Worldism, scarcely contravened the existing parameters of international law.<sup>48</sup>

The paradigm that dominated the first two decades of the age of development was “modernization theory.” One major pillar of this paradigm was the self-styled field of “development economics” that departed from the perceived inadequacy of neoclassical monoeconomics to address the challenges of late-development. Amalgamating Listian objectives with Keynesian macroeconomic engineering, this hybrid field generated an array of development models, ranging from “balanced growth” and “big-push industrialization”<sup>49</sup> to “growth poles”<sup>50</sup> and “chain of disequilibria.”<sup>51</sup> Despite their disagreements, these models converged on the objective of rapid industrialization, or what Kalyan Sanyal has labeled the paradigm of “transition” to capitalism.<sup>52</sup> The principal obstacle to transition was understood to be the “traditional” social structures in the Third World that locked in the “surplus productive capacity” of land and labor.<sup>53</sup> The task of development resembled that of “unlocking the tropics” under the colonial and

mandatory systems by opening up isolated economies and drawing more resources into exploitation and exportation.<sup>54</sup> Measures to ensure the full employment of productive factors and tighter integration to the global market pointed the way forward.

In the legal arena, the modernization paradigm instantiated in “law and economic development” (LED) as a field of study, practice, and policy enterprise. After all, modernization envisioned not only industrialization but a comprehensive transformation of the social fabric, drawing inspiration from Max Weber’s canonical thesis that capitalism flourished best in the soil of rational-legal authority.<sup>55</sup> In this spirit, a number of legal scholars, predominantly from the United States, rose to the task of identifying the legal preconditions of industrial capitalism and promoting them in the developing world. Under the assumption that an independent, efficient, and transparent legal system had formed the institutional backbone of development in the West, armed with a faith in law as an instrument of social change, and receiving support from powerful donors (the World Bank, the UNDP, the USAID, and Ford Foundation, to name a few), they trained their efforts on reforming legal codes, the judiciary, the police, and the legal profession in target countries.<sup>56</sup>

If one were to single out one publication that encapsulates the buoyant drive to legal reform, social transformation, and economic growth in the 1950s and 1960s, it would have to be Walt W. Rostow’s *The Stages of Economic Growth*. In that programmatic, “non-communist manifesto” of development, Rostow built his own stadial theory keyed to the production function of societies and their underlying institutional structures.<sup>57</sup> The first stage, “traditional society,” occupied the ground zero of development, stricken by scarcity and poverty and immobilized by traditional institutions,

customs, and habits. The disintegration of these structures through intercourse with developed nations would prepare the “conditions of take-off” and, by removing the obstacles to rapid socioeconomic transformation, launch the society into the third stage of “take-off.” The triumph of capitalist rationality, new habits of accumulation, increased productivity through division of labor and industrial technology, and reinvestment of savings would fuel exponential rates of economic growth and propel the developing nation into the final stage of “high mass consumption.” Rostow’s theory condensed the entire range of political and economic arguments later criticized by Marxian and postcolonial theorists. Imbued with a presentist teleology, its universal and unilinear theory of history enshrined Western industrial capitalism as the model that exhausted the definition of development, effectively collapsing development into “Westernization.” Its outlook on capitalist development was stamped by “methodological nationalism.”<sup>58</sup> According to this model, capitalist development had endogenously originated in Europe and was disseminating to the rest of the world, a process in which independent nation-states were racing on the same track at various speeds towards their historical terminus. Crucially, peering through methodological-nationalist lenses, the LED movement perceived the principal obstacles to development, and thus the key targets of legal reform, to reside in *domestic* law. Consequently, law and development projects remained, in the words of Brian Tamanaha, “interventions in a legal system from the outside ... dominated by the agendas and ideological views (including modernization assumptions) of the promoters on the delivery side.”<sup>59</sup> Above all, that the development effort was taking place within an international political and legal order shaped by the legacies (and in some cases the continuing presence) of colonialism received little attention.

By the end of the 1960s, the anticipated “take-off” failed to materialize and the limits of the modernization paradigm became manifest. Law and development scholars began to entertain doubts about the efficacy of their enterprise and its association with donor-driven development assistance programs that boiled down to “aid for law reform.”<sup>60</sup> Meanwhile, the development experts at the UN voiced concern over “the fact that development either leaves behind, or in some ways even creates, large areas of poverty, stagnation, marginality and actual exclusion from social and economic progress” – a fact, the same report conceded, “is too obvious and too urgent to be overlooked.”<sup>61</sup> Frustrated aspirations of national development prompted two major responses in the 1970s. The first of these, which rode the wave of increased political radicalism and Third Worldism of this decade, raised the banner of “dependency theory” and mounted a critique of imperialist economic relations that survived political decolonization. The second, which sought to salvage the mainstream development discourse, recalibrated its principal objective as the satisfaction of the “basic needs” of the populations of developing nations.

The most trenchant challenge to the modernization paradigm came from the Third World movement for the New International Economic Order (NIEO) in the 1970s, which built on the political platform of the Non-Aligned Movement formed a decade earlier.<sup>62</sup> On May 1, 1974, the UN General Assembly adopted a resolution that stipulated a range of sweeping measures on international trade, foreign investment, corporate regulation, commodity prices, financial assistance, and technology transfer.<sup>63</sup> In stark contrast to the LED approach, and with copious references to the history of colonialism and neo-colonialism, this seminal document of the NIEO defined underdevelopment as an

international problem, which had to be addressed by reforming international law rather than domestic legal systems – an approach reflected in the resolution’s call to draft a Charter of Economic Rights and Duties of States (CERDS), subsequently adopted by the General Assembly on December 12, 1974.<sup>64</sup> Amongst the proposals of the resolution, the most controversial was the principle of the developing states’ permanent sovereignty over natural resources (PSNR), which asserted the right of the states to nationalize foreign-held natural resources and adjudicate the pursuant compensation claims in domestic courts. The resolution presented the claim to PSNR as a more comprehensive elaboration of the principle of self-determination enshrined in the UN Charter. Yet while the NIEO remained anchored in the existing system of international law and labored to change it from within (which, according to Anghie, was partly responsible for its eventual failure),<sup>65</sup> its aspiration amounted to no less than “recasting the rules of international economy.”<sup>66</sup>

The dependency school, comprising a coterie of critical intellectuals mainly from the Global South, furnished the theoretical armature of this countermovement by redefining the relationship between development and underdevelopment. While the modernization approach conceived of underdevelopment as a natural condition that had to be overcome through the emulation and tutelage of the developed nations, dependency theory recast underdevelopment as the *outcome* of the subordinate integration of the Third World into the global capitalist system, initially through colonial conquest and plunder and later through a neocolonial system of “unequal exchange.”<sup>67</sup> The leading European light of the dependency school, Andre Gunder Frank, wrote,

Underdevelopment is not due to the survival of archaic institutions and capital shortage in regions that have remained isolated from the stream of world history. On the contrary,

underdevelopment was and still is generated by the very same historical process which also generated economic development: the development of capitalism itself.<sup>68</sup>

Capitalism as a global system had always rested on exploitative processes between an industrialized-financial “center” and a predominantly agrarian “periphery.” In the postwar period, this process assumed the form of a “chain of surplus transfer” that “extends the link between the capitalist world and national metropolises to the regional centers” and from there all the way down to the small peasants and landless laborers in the peripheral countries.<sup>69</sup> This “massive spatial expropriation system”<sup>70</sup> was mediated by the *comprador* bourgeoisies of the underdeveloped nations who colluded with the Western capitalist interests to the detriment of their own peoples’ material wellbeing.

The “development of underdevelopment,” therefore, emanated from the unequal and combined dynamics of global capitalism, which enabled dependency theorists to hold Western imperialism accountable for the failed development of the non-Western world. Ironically, this move found traction in the strictly economic postwar definition of development. From there, it was a short step to shift the onus of responsibility for underdevelopment to Western (neo)colonialism.<sup>71</sup> The same foundational premise, however, also revealed the potential limits of the dependency approach. For all its invective against the extant development regime, the dependency school ultimately remained wedded to the idea of development cast in the image of Western national industrialization. The principal problem with the chain of surplus transfer and unequal exchange was that, by siphoning off the surplus that could be invested as capital, it resulted in *blocked* development or at best “dependent development.”<sup>72</sup> Dependency theorists proposed an alternative path to development, which necessitated delinking from

the global capitalist system, promoting national self-reliance through schemes of import-substituting industrialization, and increasing regional economic cooperation.

The flare of the Third Worldist moment turned out to be bright but brief. The threat that the NIEO posed to corporate interests was reflected in the fierce response it elicited from international jurists from developed countries, who referred to customary international law as bulwark against the PSNR's more capacious interpretation of sovereignty. Invoking a "universal natural law of contracts" as binding on states and private actors alike, they proposed the resolution of disputes between states and corporations at transnational arbitration tribunals (unsurprisingly, staffed by Western lawyers).<sup>73</sup> In the end, transnational law of arbitration carried the day, as the NIEO lost momentum and crumbled under the pressure of the second oil crisis, the growing cleavage between oil-exporting countries and the rest of the Third World, and the urgent need to finance mounting trade deficits by securing foreign investment and loans. With Third World solidarity disintegrating, the sort of independent development program that was advanced by dependency theory lost whatever little traction it held.

Whereas the NIEO and dependency theory targeted the structural roots of underdevelopment in the Third World, the "basic needs" approach, spearheaded by the World Bank and the International Labor Organization in the 1970s, redefined development as the alleviation of the immediate effects of underdevelopment.<sup>74</sup> In stark contrast to dependency theorists' problematization of Third World poverty as the necessary correlate of First World wealth, the basic needs approach built on the classical economic postulate of poverty as the natural corollary of scarcity. The proposed solution, enunciated by the World Bank president Robert McNamara in 1972, was to reorient the



development mission towards satisfying “essential human needs: in terms of nutrition, housing, health, literacy, and employment.”<sup>75</sup> The failure of capitalist transition was indirectly admitted though the hope not relinquished. For the much-awaited economic growth to arrive, the poor in the Third World first had to acquire a minimum standard of living indispensable for a productive labor force. Echoing the association between native welfare and productivity first elaborated under the Mandate System, the “basic needs” granted the development discourse a new lease on life by opening up new fields of institutional intervention in the Third World, this time by constructing Third World populations as quasi-biological processes to be surveyed, mapped, analyzed, and managed by development experts.<sup>76</sup>

The 1980s opened with the “debt crisis” triggered by the Volcker Shock of 1979-1981, sending global interest rates soaring and battering the finances of heavily-indebted Third World countries. The neoliberal onslaught that ensued manifested itself in the Third World in a spate of “structural adjustment programs” administered by the IMF and the World Bank through notorious “conditionalities” of privatization, retrenchment in social spending, market liberalization, and monetary stabilization. The “lost decade of development” set in as unemployment and stagnation pervaded Third World economies, accompanied by a vindictive resurgence of liberal mantras and neoclassical monoeconomics<sup>77</sup> that held responsible “kleptocratic and bloated governments” for underdevelopment.<sup>78</sup> Exhortations to abandon the Keynesian hubris of state-led development and submit to the sovereign laws of the global market were therefore coupled with calls to stop pointing the finger at the North for the economic predicament of the South.<sup>79</sup> Brandishing the export-oriented growth model of the “Asian tigers,” while

conveniently bracketing the Listian *dirigisme* behind it, clinched the morality tale that development *was* possible and that the underdeveloped had only themselves to blame.<sup>80</sup> Development one again boiled down to economic growth, and achieving it required clearing the undergrowth of the previous policies by economic reform. The “Washington Consensus” of 1989 and its renewed confidence in universal solutions to local problems crystallized the new outlook. With the failure the NIEO, the 1990s would herald the revival of the modernization and LED paradigms under the guise of the “rule of law” and “good governance.”

The mainstream development discourse arose from the hiatus of the 1980s by reinventing itself under the sign of “human development.” UNDP’s 1990 Human Development Report infused the humanitarian language of the basic needs approach with an ethical content by positing development as “the process of enlarging people’s choices” that would enable them to “lead a long and healthy life, to acquire knowledge and to have access to resources needed for a decent standard of living.”<sup>81</sup> These three priorities formed the pillars of the new “comprehensive development framework,” which pitted the newfangled Human Development Indicators (HDI) against the economism of the GDP. The development economist Amartya Sen, in collaboration with the World Bank president John Wolfensohn, provided the philosophical girders of this innovation.<sup>82</sup> According to Sen, people’s power to make choices regarding their life chances, or “capabilities,” depended on the institutionally guaranteed access to resources, or “entitlements.” Health, nutrition, and education ceased in this framework to be ends in themselves but the preconditions of “development as freedom”.

However, the contrast between the HDI and GDP was arguably less stark than meets the eye, as the emphasis on “choice” partook of the neoclassical conception of individuals as rational utility maximizers operating in a world cast in the image of the market. This assumption found resonance in the turn to institutional economics as the new frontier in the technical lexicon of development.<sup>83</sup> The dismal record of the structural adjustment programs was explained by the absence of the right institutions of good governance, such as the rule of law, democracy, and transparency, which were necessary not only for fostering the “ownership” of development programs by local actors but also for creating an environment conducive to private sector-led growth.<sup>84</sup> The logical extension of the institutionalist framework was to reformulate the long-standing questions of poverty and inequality as primarily a matter of access to market and credit. For market reforms to gain traction, one first had to implement a wide array of institutional reforms, such as in landownership, corporate governance, and taxation, to lay the groundwork of “participatory development.”<sup>85</sup> In a series of legal opinions in the early 1990s, the World Bank redefined expanded the limits of its mandate beyond industry and agriculture to include “institution building” and rule of law promotion on the grounds that the latter were as essential to economic growth as infrastructure and social services.<sup>86</sup> Donor-driven agendas of domestic legal reform, compounded by the novel discourse of “empowerment” through the market, once again became of the order of the day.<sup>87</sup>

Crucially, reproducing the split between sovereignty and government and between politics and economics, institutional reform, like structural adjustment before it, was portrayed as an apolitical process to be carried out by the “technical assistance” of economists and development experts.<sup>88</sup> Beneath the surface associations between

democracy, participation, human rights, and concrete freedoms, one could detect the pulse of the politics of universalism that emphatically brought the entire humanity within the fold of development while simultaneously privileging particular actors and forms of knowledge as the champions of the development crusade. John Wolfensohn's address at the 1996 Annual Meeting of the World Bank offers a sterling example:

Development knowledge is part of the 'global commons': it belongs to everyone, and everyone should benefit from it. But a global partnership is required to cultivate and disseminate it. The Bank Group's relationships with governments and institutions all over the world and our unique reservoir of development experience across sectors and countries, position us to play a leading role in this new global knowledge partnership. ... That means both accumulating the right kind of knowledge, and helping our clients build the capacity to use it.<sup>89</sup>

## **Conclusion**

The recurrent failure of the postwar development regime to deliver its promises has led some critics to announce that it is "time to write its obituary."<sup>90</sup> This position, loosely labeled "postdevelopmentalism," draws inspiration from poststructuralist and postcolonial approaches in order to go beyond the debates over "development alternatives" and gesture towards "alternatives to development."<sup>91</sup> Armed with a profound skepticism of the Enlightenment idea of progress and positing development as a "language of power," the postdevelopmentalist perspective seeks to deconstruct the putative universalism of development in order to disclose how the provincial European rationality behind it has been, in Dipesh Chakrabarty's words, "made to look obvious far beyond the ground where it originated."<sup>92</sup>

However, fueled in part by its suspicion of the economism of the development discourse, postdevelopmentalism trains its attention on the register of culture and representation ("can the subaltern speak?") at the expense of economic analysis ("can the

subaltern eat?”).<sup>93</sup> Moving perhaps too hastily from “Orientalism”<sup>94</sup> to “developmentalism” as kindred modes of representing the non-European, it reduces development to a “particular cast of mind,” a mode of “enframing” reality, a “mental structure” that needs to be dismantled.<sup>95</sup> Its Marxian detractors have variously pointed out that postdevelopmentalist critique underplays, if not brackets, the historically specific links between the discourse of development and the dynamics of global capital, often conflating capitalism, development, and modernity. The result, according to Sanyal, is a blanket rejection of development in “an explicitly cultural critique of the economy” rather than comprehending the economy as a site of political contestation in which development discourse is deployed as a strategy to navigate and contain the contradictions of capital.<sup>96</sup> That many citizens in the Third World still demand services conventionally associated with “development,” such as nutrition, health, housing, education, and employment, constitutes another challenge to the postdevelopmentalist search (particularly pronounced in Arturo Escobar’s writings)<sup>97</sup> for social spaces uncontaminated by the development discourse. The major contention within the critical camp therefore revolves around whether to abandon “development” altogether and find a new discursive home for these demands or turn them into the motive force for attaining the “unrealized potential of development.”<sup>98</sup>

At our present moment, the development discourse is indeed in disarray, though hardly due to the critical acumen of the postdevelopmentalist charges. Around the same time the UN unveiled the Sustainable Development Goals (wherein the rule of law and inclusive institutions are cited as ends in themselves), the World Bank announced that it would remove the phrase “developing world” from its databases and publications.

Beneath the semantic changes in the lexicon, however, lies the enduring fallout of the economic implosion of 2008. Amongst the first to be jettisoned in this turmoil appears to have been the development agenda, as dramatically illustrated by the Global North's response to the financial and food crises in 2007-2008. Whereas governments quickly produced \$20 trillion to salvage the global financial system, they pledged only \$22 billion for the emergency fund to feed those hardest-hit by soaring food prices, and actually raised a mere \$2.2 billion.<sup>99</sup> Even the bare-bones humanitarian goal of development foundered on indifference.

Even if we concede that this turn of events marks “end of development,” it by no means spells the same for the politics of universalism that once animated it. On the contrary, the politics of universalism found renewed vigor in the post-crisis context, erupting this time around the recent phenomenon of “global land grabs.”<sup>100</sup> As private investors and sovereign wealth funds scramble to purchase or lease arable land in Africa for food and biofuel production, a new discourse of “global commons” is forming, which depicts Africa as a vast reservoir of sparsely populated and underutilized land.<sup>101</sup> The corollary proposal, adumbrated in the 2010 World Bank Land Report,<sup>102</sup> is that a more efficient utilization of this idle resource through agro-business and commercialized outgrower schemes would increase the *global* output of food and biofuels in a way that benefits not only the food-insecure countries of the Global North but also the inhabitants of the lands in question by providing them with employment, services, and knowledge transfer. Crucially, in this emplotment, locally excess capacity finds its true purpose in catering to the pressing needs of the world population. Here, the politics of universalism assumes the mantle of the “common heritage of mankind,” originally articulated by Avid

Pardo at the height of the debates over decolonization and economic sovereignty in the late-1960s.<sup>103</sup> Now, as then, the idea of global commons helps transnational corporations, wealthy states, and development experts to formulate claims, however circumspect, to resources under the *de jure* sovereignty of states. As we have seen, however, the idea of “common heritage” has a much longer genealogy in the history of Western legal doctrine, extending back to the Lockean thesis that while the earth is God’s common gift to humanity, its true potential can be unlocked in the service of humanity only by ceding effective control over it to a select few with the knowledge and techniques necessary for most efficiently exploiting it. If this case and the preceding account illustrates anything, it is the need to look beyond the self-proclaimed project of development to grasp the historical dynamics of (neo)colonialism and capitalism that once gave development its ideological-institutional power but now seems to have left it in the rearview mirror of history.

## REFERENCES

Adamovsky, E., ‘Before Development Economics: Western Political Economy, the “Russian Case,” and the First Perceptions of Economic Backwardness (from the 1760s until the mid-Twentieth Century),’ *Journal of the History of Economic Thought* 32 (2010), 349.

Allott, P., *Eunomia: New Order for a New World* (Oxford: Oxford University Press, 1990)

Allott, P., *Health of Nations: Society and Law Beyond the State* (Cambridge: Cambridge University Press, 2002).

Amin, S., *Accumulation on a World Scale: A Critique of the Theory of Underdevelopment* (New York: Monthly Review Press, 1974).

- Amin, S. *Imperialism and Unequal Development* (New York: Monthly Review Press, 1977)
- Anghie, A., *Imperialism, Sovereignty, and the Making of International Law* (Cambridge: Cambridge University Press, 2005).
- Anghie, A. ‘The Evolution of International Law: Colonial and Postcolonial Realities,’ *Third World Quarterly* 27 (2006), 739.
- Anghie, A., ‘Legal Aspects of the New International Economic Order,’ *Humanity: An International Journal of Human Rights and Development* 6 (2015), 145.
- Arneil, B., *John Locke and America: The Defence of English Colonialism* (Oxford: Clarendon Press, 1995).
- Bagchi, A., ‘Nineteenth Century Imperialism and Structural Transformation in Colonized Countries,’ in H. Akram-Lodhi and C. Kay (eds), *Peasants and Globalization: Political Economy, Rural Transformation and the Agrarian Question* (London: Routledge, 2009).
- Bain, W., *Between Anarchy and Society: Trusteeship and the Obligations of Power* (Oxford: Oxford University Press, 2003).
- Baran, P. and P. Sweezy, *Monopoly Capital* (New York: Monthly Review Press, 1966)
- Bates, R., *Markets, States, and Tropical Africa* (Berkeley: University of California Press, 1981).
- Bayly, C., ‘The First Age of Global Imperialism, c. 1760-1830,’ *The Journal of Imperial and Commonwealth History* 26 (1998), 28.
- Bedjaoui, M., *Towards a New International Economic Order* (New York: UNESCO, 1979).
- Berry, C., *Social Theory of the Scottish Enlightenment* (Edinburgh: Edinburgh University Press, 1997).
- Borras, S., R. Hall, I. Scoones, B. White and W. Wolford, ‘Towards a Better Understanding of Global Land Grabbing: An Editorial Introduction,’ *Journal of Peasant Studies* 38 (2009), 209.
- Cardoso, F., ‘Dependency and Development in Latin America,’ in H. Alavi and T. Shanin (eds), *Introduction to the Sociology of Developing Societies* (New York: Monthly Review Press, 1982).
- Cardoso, F. and E. Faletto, *Dependency and Development* (Berkeley: University of California Press, 1969)



Carothers, T. (ed), *Promoting Rule of Law Abroad: In Search of Knowledge* (New York: Carnegie Endowment for International Peace, 2006).

Chakrabarty, D., *Provincializing Europe: Postcolonial Thought and Historical Difference* (Princeton: Princeton University Press, 2000).

Chatterje, P., *The Nation and Its Fragments: Colonial and Postcolonial Histories* (Princeton: Princeton University Press, 1993).

Cox, R., 'Ideologies and the New International Economic Order: Reflections on Some Recent Literature,' *International Organization* 33 (1979), 257.

Davis, K. and M. Trebilcock, 'The Relationship between Law and Development: Optimists versus Skeptics,' *The American Journal of Comparative Law* 56 (2008), 895.

Deininger, K. and D. Byerlee, *Rising Global Interest in Farmland: Can It Yield Sustainable and Equitable Benefits?* (Washington, DC: World Bank, 2010).

Domar, E., 'Expansion and Employment,' *American Economic Review* 37 (1947), 34.  
Dos Santos, T., 'The Structure of Dependence,' *American Economic Review* 60 (1970), 231.

Easterly, W., *The Tyranny of Experts: Economists, Dictators, and the Forgotten Rights of the Poor* (New York: Basic Books, 2014).

Esteva, G., 'Development,' in W. Sachs (ed), *The Development Dictionary: A Guide to Knowledge as Power* (2<sup>nd</sup> edn, London: Zed Books, 2010)

Emmanuel, A., *Unequal Exchange: A Study of the Imperialism of Free Trade* (New York: Monthly Review Press, 1972).

Escobar, A., *Encountering Development: The making and the Unmaking of the Third World* (Princeton: Princeton University Press, 1995).

Escobar, A., 'Imagining a Post-Development Era? Critical Thought, Development and Social Movements,' *Social Text* 31 (1992), 20.

Fitzmaurice, A., *Sovereignty, Property, and Empire, 1500-2000* (Cambridge: Cambridge University Press, 2014).

Foucault, M, 'Governmentality' in G. Burchell, C. Gordon and P. Miller (eds), *The Foucault Effect: Studies in Governmentality* (Chicago: University of Chicago Press, 1991)

Frank, A., "The Development of Underdevelopment," *Monthly Review* 18 (1966), 17.

- Frank, A., *Capitalism and Underdevelopment in Latin America* (New York: Monthly Review Press, 1969).
- Galanter, M., 'Modernization of Law,' in Myron Weiner (ed), *Modernization* (New York: Basic Books, 1966)
- Gallagher, J. and R. Robinson, 'The Imperialism of Free Trade,' *Economic History Review* 4 (1951), 1
- Geisler, C., 'New *Terra Nullius* Narratives and the Gentrification of Africa's "Empty Lands,"' *Journal of World-Systems Research* 18 (2012), 15.
- Gerschenkron, A., *Economic Backwardness in Historical Perspective: A Book of Essays* (Cambridge, MA: Belknap Press, 1962).
- Goswami, M., *Producing India: From Colonial Economy to National Space* (Chicago: University of Chicago Press, 2004).
- Haggard, S., A. ManIntyre, and L. Tiede, 'The Rule of Law and Economic Development,' *Annual Review of Political Science* 11 (2008), 205.
- Hall, R., 'Land Grabbing in Southern Africa: The Many Faces of the Investor Rush,' *Review of African Political Economy* 38 (2011), 193.
- Harrod, R., *Towards a Dynamic Economics: Some Recent Developments of Economic Theory and Their Application to Policy* (London: Macmillan, 1948)
- Hilferding, R., *Finance Capital: A Study of the Latest Phase of Capitalist Development* (first published 1910, London: Routledge, Kegan & Paul, 1981)
- Hirschman, A., *The Strategy of Economic Development* (New Haven: Yale University Press, 1958).
- Hobson, J. A., *Imperialism: A Study* (first published 1902, London: Allen & Unwin, 1938).
- Hossain, K. (ed), *Legal Aspects of the New International Economic Order* (London: Frances Pinter, 1980).
- Humphreys, S., *Theatre of the Rule of Law: Transnational Legal Intervention in Theory and Practice* (Cambridge: Cambridge University Press, 2010).
- International Labor Organization, *Employment, Growth and Basic Needs: A One-World Problem* (New York: Praeger Publishers, 1976).
- Kanth, R., 'Introduction: The Oeuvre of Development Studies – An Overview' in R. Kanth (ed) *Paradigms in Economic Development* (London: M. E. Sharpe, 1994).

- Kapoor, I., *The Postcolonial Politics of Development* (London: Routledge, 2008)
- Kennedy, D. 'When Renewal Repeats: Thinking Against the Box,' *New York University Journal of International Law and Politics*, 32 (2000), 355.
- Lal, D., 'Misconceptions of Development Economics,' *Finance and Development* 22 (1985), 10.
- Latouche, S., *In the Wake of the Affluent Society" An Exploration of Post-Development* (London: Zed Books, 1993).
- Lenin V. I., *Imperialism, the Highest Stage of Capitalism: A Popular Outline* (first published 1917, New York: International Publishers, 1939)
- Lewis, W., 'Economic Development with Unlimited Supplies of Labor,' *The Manchester School* 22 (1954), 139.
- List, F., *The National System of Political Economy* (first published 1847, London: Longmans, 1909).
- List, F., *The Natural System of Political Economy* (London: Frank Cass, 1983).
- Locke, J., *Two Treatises of Government* (first published 1689, Cambridge: Cambridge University Press, 1960).
- Lugard, F., *The Dual Mandate in British Tropical Africa* (London: William Blackwood and Sons, 1922).
- Luxemburg, Rosa, *The Accumulation of Capital*, (first published 1913, London: Routledge, 2003).
- McNally, D., 'From Financial Crisis to World Slump: Accumulation, Financialisation, and the Global Slowdown,' *Historical Materialism* 17 (2009), 35.
- McNamara, R., 'Address to the Bard of Governors: Washington, D.C., September 25, 1972,' in *The McNamara Years at the World Bank: Major Policy Addresses of Robert S. McNamara 1968-1981* (Baltimore: Johns Hopkins University Press, 1981).
- Meier, G., 'Introduction' in G. Meier (ed), *From Classical Economics to Development Economics* (London: Macmillan, 1994).
- Mitchell, T., *Colonising Egypt* (Cambridge: Cambridge University Press).
- Myint, H., *Theories of Welfare Economics* (Cambridge: Harvard University Press, 1948).

Myrdal, G., *Economic Theory and Underdeveloped Regions* (New York: Harper and Row, 1963).

Nesiah, V., L. Eslava and M. Fakhri, *Bandung, Global History and International Law: Critical Pasts and Pending Futures* (Cambridge: Cambridge University Press, 2015, forthcoming).

North, D., *Institutions, Institutional Change and Economic Performance* (Cambridge: Cambridge University Press, 1990).

Ohnesorge, J., 'Developing Development Theory: Law and Development Orthodoxies and the Northeast Asian Experience,' in G. McAlinn and C. Pejkoivic (eds), *Law and Development in Asia* (New York: Routledge, 2012).

Pagden, A., 'Dispossessing the Barbarian: The Language of Spanish Thomism and the Debate over the Property Rights of the American Indians,' in D. Armitage (ed) *Theories of Empire, 1450-1800* (Ashgate: Variorum, 1998).

Pagden, A., *Lords of All the World: Ideologies of Empire in Spain, Britain and France, c. 1500-c. 1800* (New Haven: Yale University Press, 1995).

Pahuja, S., *Decolonising International Law: Development, Economic Growth, and the Politics of Universality* (Cambridge: Cambridge University Press, 2011).

Peet, R. and E. Hartwick, *Theories of Development: Contentions, Arguments, Alternatives* (2<sup>nd</sup> edn, London: The Guilford Press, 2009)

Perroux, F., 'Note sur la Notion de Pole de Croissance,' *Economie Appliquée* 8 (1955), 307.

Prebisch, R., *International Economics and Development* (New York: Academic Press, 1972).

Rahnema, M., 'Participatory Action Theory: The "Last Temptation of Saint" Development,' *Alternatives* 15 (1990), 377.

Rahnema, M. and V. Bawtree (eds), *The Postdevelopment Reader* (London: Zed Books, 1997).

Rajagopal, B., 'From Modernization to Democratization: The Political Economy of the "New" International Law,' in R. Falk, L. Ruiz and R. Walker (eds), *Reframing the International: Law, Culture, Politics* (New York: Routledge, 2002).

Ranganathan, S., 'Global Commons,' *European Journal of International Law* 27 (2016), 693.

Rittich, K. 'The Future of Law and Development: Second-Generation Reforms and the Incorporation of the Social,' in *The New Law and Economic Development: A Critical Appraisal* (Cambridge: Cambridge University Press, 2006).

Rittich, K., 'Theorizing International Law and Development,' in Anne Orford, Florian Hoffmann, and Martin Clark (eds), *The Theory of International Law* (Oxford: Oxford University Press, 2016).

Rist, G., *The History of Development: From Western Origins to Global Faith* (3<sup>rd</sup> edn, London: Zed Books, 2008).

Robinson, R. and R. Louis, 'The Imperialism of Decolonization,' *Journal of Imperial and Commonwealth History* 22 (1994), 462.

Rosenstein-Rodan, P., 'Problems of Industrialization of Eastern and Southeastern Europe,' *Economic Journal* 53 (1943), 205.

Rostow, W., *The Stages of Economic Growth: A Non-Communist Manifesto* (Cambridge: Cambridge University Press, 1960).

Sachs, W., 'Introduction' in W. Sachs (ed), *The Development Dictionary: A Guide to Knowledge as Power* (2<sup>nd</sup> edn, London: Zed Books, 2010)

Said, E., *Orientalism* (New York: Pantheon Books, 1978).

Sanyal, K., *Rethinking Capitalist Development: Primitive Accumulation, Governmentality and Post-Colonial Capitalism* (New Delhi: Routledge, 2007).

Seidman, R., *The State, Law, and Development* (New York: Palgrave MacMillan, 1978).

Semmel, B., *Rise of Free Trade Imperialism: Political Economy, the Empire of Free Trade and Imperialism, 1750-1850* (Cambridge: Cambridge University Press, 1970).

Sen, A., 'Development: Which Way Now?', *The Economic Journal* 93 (1983), 745.

Sen, A., *Development as Freedom* (New York: Knopf, 1999).

Sen, A. and J. Wolfensohn, 'Let's Respect Both Sides of the Development Coin,' *New York Times* (New York, 5 May 1999).

Sinha, R., 'Poverty, Unemployment and Development Policy: A Case Study of Selected Issues with Reference to Kerala,' (New York: United Nations, 1975).

Slater, D., 'The Geopolitical Imagination and the Enframing of Development Theory,' *Transactions* 18 (1993), 419.

- Smith, A., *An Inquiry Into the Nature and Causes of the Wealth of Nations* (first published 1776, Indianapolis: Liberty Fund, 1981).
- Snyder, F., 'Law and Development in the Light of Dependency Theory,' *Law and Society Review* 14 (1980), 723.
- Streeten, P., *Basic Needs: Premises and Promises* (New York: World Bank, 1979).
- Sylvester, C., 'Development Studies and Postcolonial Studies: Disparate Tales of the "Third World,"' *Third World Quarterly* 20 (1999), 703.
- Tamanaha, B., 'The Primacy of Society and the Failures of Law and Development,' *Cornell International Law Journal* 44 (2011), 209.
- Thomas, C., 'Max Weber, Talcott Parsons, and the Sociology of Legal Reform: A Reassessment with Implications for Law and Development,' *Minnesota Journal of International Law* 15 (2006), 383.
- Trebilcock, M., R. Daniels, *Rule of Law Reform and Development: Chardin the Fragile Path of Progress* (Northampton, MA: Edward-Elgar Publishing, 2008)
- Trebilcock, M., R. Daniels, *Rule of Law Reform and Development: Chardin the Fragile Path of Progress* (Northampton, MA: Edward-Elgar Publishing, 2008)
- Trubek, D., 'Max Weber on Law and the Rise of Capitalism,' *Wisconsin Law Review* (1972), 720
- Trubek, D., 'The "Rule of Law," in Development Assistance: Past, Present, and Future,' in *The New Law and Economic Development: A Critical Appraisal* (Cambridge: Cambridge University Press, 2006).
- Trubek, D., 'Law and Development: 40 Years after Scholars in Self-Estrangement: A Preliminary Review,' *University of Toronto Law Journal* 66 (2016), 301.
- Trubek D., and M. Galanter, 'Scholars in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies,' *Wisconsin Law Review* 4 (1974), 1062.
- Truman, H., 'Inaugural Address, 20 January 1949,' in *American Foreign Relations, 1971: A Documentary Record* (New York: New York University Press, 1976)
- Tuck, R., 'The "Modern" Theory of Natural Law' in A. Pagden (ed) *Languages of Political Theory in Early Modern Europe* (Cambridge: Cambridge University Press, 1987).
- Tuck, R., *Rights of War and Peace: Political Thought and International Order from Grotius to Kant* (Oxford: Oxford University Press, 1999).

Tully, J., 'Rediscovering America: The Two Treatises and Aboriginal Rights,' in *An Approach to Political Philosophy: John Locke in Contexts* (Cambridge: Cambridge University Press, 1993).

United Nations, 'Report of the 1969 Meeting of Experts on Social Policy and Planning,' *International Development Review* 3 (1971).

United Nations, 'Charter of Economic Rights and Duties of States,' Gen. Ass. Res. 3281, December 12, 1974 (a).

United Nations, 'Declaration on the Establishment of a New International Economic Order,' Gen. Ass. Res. 3201 (S-VI), May 1, 1974 (b).

United Nations Development Program, *Human Development Report 1990* (New York: Oxford University Press, 1990).

United Nations Development Program, *Making the Law Work for Everyone*, Vol. 1, *Report on the Empowerment of the Poor* (New York: United Nations, 2008).

Wolfensohn, J., 'Annual Meeting Speech,' (World Bank, 1 October 1996 )  
<http://web.worldbank.org>, accessed 16 May 2015.

---

<sup>1</sup> Allott 1990, 2002. On development as a "belief" of a religious type, see Rist 2008; Pahuja 2011.

<sup>2</sup> Rahnema 1990.

<sup>3</sup> Sachs 2010, xix.

<sup>4</sup> Rittich 2016, 821.

<sup>5</sup> Sachs 2010, xv.

<sup>6</sup> Kennedy 2000.

<sup>7</sup> Rist 2008, 56.

<sup>8</sup> Truman 1976.

<sup>9</sup> Esteva 2010, 3.

<sup>10</sup> Louis and Robinson 1994.

<sup>11</sup> Pahuja 2011, 36.

<sup>12</sup> Fitzmaurice 2014, especially 1-33.

<sup>13</sup> The idea of the earth as the common patrimony of mankind extends back to medieval Thomistic framework of natural law. See Fitzmaurice 2014, 33-58. On self-preservation as the minimal normative core of the early-modern natural law theory, see Tuck 1987.

<sup>14</sup> Pagden 1995, 1998; Tuck 1999.

<sup>15</sup> Tully 1993; Arneil 1995.

<sup>16</sup> Locke 1960, especially 285-302..

<sup>17</sup> Locke 1960, 206.

<sup>18</sup> Locke 1960: 339.

<sup>19</sup> Fitzmaurice 2014, 4.

<sup>20</sup> Anghie 2005, 2006 .

<sup>21</sup> Meier 1994; Peet and Hartwick 2009, 14-22.

- 
- <sup>22</sup> Meier 1994; Kanth 1994; Esteva 2010.  
<sup>23</sup> Bayly 1998.  
<sup>24</sup> Smith 1981, 328-36.  
<sup>25</sup> Smith 1981, 75.  
<sup>26</sup> Ibid., 287.  
<sup>27</sup> Ibid., 69.  
<sup>28</sup> Gallagher and Robinson 1951; Semmel 1970.  
<sup>29</sup> List 1909, 284.  
<sup>30</sup> List 1983, 66.  
<sup>31</sup> Adamowsky 2010.  
<sup>32</sup> List 1983, 126.  
<sup>33</sup> Goswami 2004  
<sup>34</sup> Anghie 2005; Bain 2003.  
<sup>35</sup> Fitzmaurice 2014, 6, 250-2; Anghie 2005, 163, 170.  
<sup>36</sup> Bagchi 2009.  
<sup>37</sup> Hobson 1938; Hilferding 1981; Lenin 1939; Luxemburg 2003.  
<sup>38</sup> Rist 2008, 58-60.  
<sup>39</sup> Lugard 1922, 18  
<sup>40</sup> Anghie 2005, 185.  
<sup>41</sup> For a seminal explication of the idea of “governmentality” as it has informed critical development studies, see Foucault 1991.  
<sup>42</sup> Anghie 2005: 263.  
<sup>43</sup> Truman 1976.  
<sup>44</sup> Rist 2008, 73.  
<sup>45</sup> Pahuja, 18-21, 65.  
<sup>46</sup> Esteva 2010, 14; also see Sylvester 1999, 717.  
<sup>47</sup> Chatterjee 1993, 205.  
<sup>48</sup> Rist 2008, 82-3. For a recent set of reappraisals, see the forthcoming collection of essays in Nesiah et al.  
<sup>49</sup> Rosenstein-Rodan 1943; Harrod 1948; Domar 1947; Gerschenkron 1962.  
<sup>50</sup> Perroux 1955; also see Myrdal 1963.  
<sup>51</sup> Hirschman 1958.  
<sup>52</sup> Sanyal 2007, 105-168.  
<sup>53</sup> Myint 1948; Lewis 1954.  
<sup>54</sup> Meier 1994, 16.  
<sup>55</sup> Trubek 1972, Kennedy 2004, Thomas 2006.  
<sup>56</sup> Galanter 1966; Seidman 1978. For recent appraisals, see Davis and Trebilcock 2008; Trubek 2016; Rittich 2016.  
<sup>57</sup> Rostow 1960.  
<sup>58</sup> Goswami 2004, 13.  
<sup>59</sup> Tamanaha 2011: 244.  
<sup>60</sup> Trubek and Galanter 1972. Also see Trubek 2014.  
<sup>61</sup> United Nations 1971.  
<sup>62</sup> Bedjaoui 1979; Hossain 1980; Cox 1979.  
<sup>63</sup> United Nations 1974b.  
  
<sup>64</sup> United Nations 1974a.  
<sup>65</sup> Anghie 2015  
<sup>66</sup> Rist 2008, 144.  
<sup>67</sup> Cardoso and Faletto 1969; Dos Santos 1970; Amin 1974, 1977; Frank 1966, 1969; Emmanuel 1972; Prebisch 1972. Also see, Snyder 1980.  
<sup>68</sup> Frank 1966, 18. The theoretical antecedents of radical dependency arguments were laid down by Marxist economists Paul Baran and Paul Sweezy’s (1966) critique of monopoly capitalism.  
<sup>69</sup> Frank 1969, 7.  
<sup>70</sup> Peet & Hartwick 2009, 169.  
<sup>71</sup> Pahuja 2011, 59.



- 
- <sup>72</sup> On the distinction between “dependent development” and “underdevelopment,” see Cardoso 1982.
- <sup>73</sup> Anghie 2015: 152. Pahuja 2011, 95-171.
- <sup>74</sup> ILO 1976; Sinha, 1975; Streeten 1979
- <sup>75</sup> McNamara 1981.
- <sup>76</sup> Esteva 2010, 5.
- <sup>77</sup> Lal 1985.
- <sup>78</sup> Sylvester 1999, 708.
- <sup>79</sup> Peet and Hartwick 2009, 75.
- <sup>80</sup> Ohnesorge 2012; Haggard et al 2008.
- <sup>81</sup> UNDP 1990, 10
- <sup>82</sup> Sen and Wolfensohn, 1999; Sen 1983,1999. Also see Rajagopal 2002; Rittich 2006.
- <sup>83</sup> Bates 1981; North 1990.
- <sup>84</sup> Carothers 2006; Trebilcock and Daniels 2008.
- <sup>85</sup> Rajagopal 2002, 149.
- <sup>86</sup> Tamanaha 2011: 236; Humphreys 2010.
- <sup>87</sup> UNDP 2008.
- <sup>88</sup> Easterly 2014
- <sup>89</sup> Wolfensohn 1996.
- <sup>90</sup> Sachs 2010, vx.
- <sup>91</sup> Peet and Hartwick 2009, 226. The most prominent works in the postdevelopmentalist strain are Escobar 1992, 1995; Latouch 1993; Slater 1993; Rist 2008. See especially the essays collected in Sachs 2010; Rahnema and Bawtree 1997.
- <sup>92</sup> Chakrabarty 2000, 43.
- <sup>93</sup> Sylvester 1999.
- <sup>94</sup> Said 1978.
- <sup>95</sup> Sachs 2010; Slater 1993; Mitchell 1988.
- <sup>96</sup> Sanyal 2007, 85-94.
- <sup>97</sup> Escobar 1995. For a critique, see Kapoor 2008, 3-18; Peet and Hartwick, 230-9.
- <sup>98</sup> Peet and Hartwick 2009, 238.
- <sup>99</sup> McNally 2009, 75-6.
- <sup>100</sup> Borrás et al. 2009; Hall 2011.
- <sup>101</sup> Geisler 2012.
- <sup>102</sup> Deininger and Byerlee 2010.
- <sup>103</sup> Ranganathan 2016.