

**Fulbright Economics Teaching Program**  
**Master of Public Policy**  
**Academic year 2013-2015**  
**Fall Term**

**Syllabus**

**Law and Public Policy**

**Teaching Team**

Instructor: Pham Duy Nghia      Email: [nghiapd@fetp.vnn.vn](mailto:nghiapd@fetp.vnn.vn)  
Tutor: Thoi Ngoc Doan Thuy      Email: [m5.thuytn@fetp.vnn.vn](mailto:m5.thuytn@fetp.vnn.vn)

**Class meetings:**      Tuesday      8.30 – 10.00  
                                 Thursday      8.30 – 10.00  
                                 (14/1; 16/01/2014):      8.30-11.45; 13.30 – 17.00

**Office hours:**

	<i>Monday</i>	<i>Tuesday</i>	<i>Wednesday</i>	<i>Thursday</i>	<i>Friday</i>
<b>Pham Duy Nghia</b>		13.30-15.00		13.30-15.00	
<b>Thoi Ngoc Doan Thuy</b>	15:00-16:30		15:00-16:30		

**Overview**

Law, a social institution, is as old as the human history itself. From Western Europe and North America to East Asia, if laws are transparent, ensuring freedom for citizens and enforcing the authorities' responsibility, it will contribute to reliable and predictable government interventions. Through these channels law becomes necessary for social stability and development.

From the beginning of Doi moi up to the present, law has played a very important role in Vietnam. A system of law has been formed and contributed to a significant change in economic, political and social life. Through the judicial system public policies are made, enforced and implemented with public participation.

This course discusses the relationship between law and public policy. It is divided into two parts. Part I provides the points of view and theoretical framework to understand the social function of law, its importance in development, the process of legislation and discussion on the quality assessment of law. Part II applies that theoretical framework to some fields of basic law of

market economy, focusing on property law, contract law and law solves the disputes, establish justice among the subjects in markets.

Specific points of view and theoretical frameworks will be introduced to enable an in depth analysis and assessment of the legal system. Through discussions of the legal field and case studies students will be gradually familiarized with the tools and skills necessary to evaluate the relationship between public policy and the specific areas of the legal system which are relevant to civil servants.

### **Course objectives:**

By completing this course, students will be better able to:

- Discuss the role of the legal system with regard to public policy, especially its contribution to the development of a strong and efficient country,
- Recognize the rules of the legislative procedure and the relationship between public policy and law shown in this procedure,
- Develop the points of view, necessary methods and skills to evaluate the quality of law relating to a concrete area of public policy such as assuring fair property law, freedom of contract, free competition, and setting up a transparent and accessible system to resolve conflicts in a lawful orderly manner.

### **Course requirements:**

Students are required to read the suggested books and articles, lecture notes, and legal documents, and to participate in class discussions and group work.

There will be no final exam. Grades will be determined by three parts as follows:

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| 1. Summary of weekly readings (05 summaries):                              | 40% |
| 2. Presentation and student seminars (03 short seminars, 1 final seminar): | 40% |
| 3. Class participation:  | 20% |

*1) Summaries of weekly readings, 40 % of overall grade*

Each week students will be required to submit a one-page typed paper (700 words max) discussing issues raised in the required readings. The written discussion must be submitted both a hard copy (to pigeon holes in the lab room) and an electronic copy (as required) prior to 8.20 am every Tuesday. In total, there are 05 summaries of weekly readings.

*2) Presentations and student seminars, 40 % of overall grade*

To apply the knowledge learned to the reality of industry or to students own working areas, students have to participate in one of twelve research groups, each group includes four to five students. The group objective is to complete a short seminar evaluating the legal enforcement and implementation, foreseeing the opportunities, challenges in making law in the narrow area of government management that the group members are interested in. By participating in groups, students should discuss the role of law with regard to development, determine necessary changes in law for an efficient intervention and regulation of government in the narrow area selected. The process of group work is as follows:

*05/12/2013:* Submit the registered topics and assign work items to group members (make the list, names of selected area, assign work items, plan research objectives (not more than two pages).

*19/12/2013:* Submit the outlines assessing the real legal situation of the industry, area selected (not more than two pages)

*26/12/2013:* Submit the preliminary report of selection of legal issues under consideration or the new enforcement of the industry selected and the discussed criteria (not more than three pages).

*Morning and afternoon of two days, 14/01 and 15/01/2014:* Presentation of groups, each group takes about 60 minutes including not more than 20 minutes for the presentation, then 30 minutes for comments, questions, and answers, and 10 minutes for the evaluation of the whole class and teaching team members.

*23/01/2014:* Submit the assessment of the process of making and implementing law in the selected area, (no less than 10 pages, there is no maximum page limit, including summary and detailed contents).

The regulations for submitting the registration, preliminary report, and last report is as same as the weekly written discussions.

The Teaching Team will also be available during office hours for consultation on essay topics and progress. The group study is graded as follows: (i) doing assignments as scheduled 10%, (ii) hand in assignments as scheduled 10%, (iii) presentation including the answers in class 50%, (iv) content of the last report 30%.

3) *Preparation and class participant, 20 % of overall grade.*

This course combines lectures and case analysis. Students are provided a part of the lectures and case discussion. The number of discussion hours will be increase towards the end of the course. Students will be assessed by their preparation participation in class discussions.

**References:**

Required readings:

- Barry R Weingast (Stanford University) 2010, *Why Developing Countries Prove So Resistant to the Rule of Law*, in James J. Heckman, Robert L. Nelson, Lee Cabatingan, *Global Perspectives on the Rule of Law*. (New York: Routledge-Cavendish, 2010) – It was translated.
- Pistor and Wellons, *The role of law and legal institutions in Asian economic development 1960-1995*, ADB Executive Summary, HIID 1998, Oxford University Press 1999 – It is in FETP library.
- Ann Seidman et al, *Assessing a bill in terms of public interest*, in WB: Law & Justice for Development, 2003 translated into Ann Seidman, Xem xét dự án luật: Cẩm nang cho các nhà lập pháp, NXB CTQG, HN, 2004;
- UNDP/Committee for legal empowering, *Law for all*, Justice Publishing House, HN 2011 (translated book), Book I.
- Truong Thien Thu, Ranjith Perera, *Intermediate levels of property rights and the emerging housing market in HCM City, Vietnam*, Land Use Policy 28 (2010) 124-138, it was translated.
- Community of sponsors, *Vietnam Development Report 2010: Current institution*, Chapter 5, pages 85-103, it is in FETP library.
- Tom Ginsburg, *Judicial Independence in East Asia: Lessons for China*, in Randall Peerenboon, *Judicial Independence in China*, Cambridge University Press 2010, pp 247-259, it was translated.
- Randall Peerenboon, *Báo cáo nghiên cứu về quản lý tòa án ở Trung Quốc*, UNDP-Ban chỉ đạo cải cách tư pháp, 2011 (tài liệu chưa công bố) – E/V
- Phạm Duy Nghĩa, *Giáo trình Pháp luật đại cương*, NXB CAND 2011
- Thái Vĩnh Thắng, *Tư tưởng lập hiến ở Việt Nam trước Cách mạng Tháng Tám năm 1945*, NNPL 11/2011

Legal documents

- HP 1946, 1959, 1980, 1992 (amended in 2001) và Bản dự thảo sửa đổi HP (2012)
- BLDS 2005
- LDD 2003
- Law on issuance of legal normative documents 2008
- Other legal documents (according to each lecture)

Additional readings:

- OECD 2005, Guidelines on Corporate Governance of State Owned Enterprises

- Ministry of Justice (2011), Handbook for drafting, evaluating and examining impact of Legal Normative Documents, Justice Publishing House 2011
- UNDP/Committee for legal empowering, *Law for all*, Justice Publishing House, HN 2011 (translated book), Book II.
- UNDP and VN Supreme Court, (Bath and Biddulph), Research Studies on the Organization and Function of the Justice System in Five Selected Countries, 2010
- WGI: <http://info.worldbank.org/governance/wgi/index.asp>
- Source of document: [www.chinhphu.vn](http://www.chinhphu.vn) (system of documents), Or National Assembly: database of Vietnam law: <http://vietlaw.gov.vn/LAWNET/>
- Legislative Study Magazine: <http://www.nclp.org.vn/>
- Draft of law: <http://duthaonline.quochoi.vn/> ; [www.vibonline.com.vn](http://www.vibonline.com.vn)

## Contents and Schedule

<b>26/11</b>	<p><b>Introduction: New challenges to government and law</b></p> <ul style="list-style-type: none"> <li>- Expectation for the course</li> <li>- Introduction</li> <li>- Overall challenges of government and law</li> </ul>
<b>28/11</b>	<p><b>Overall law</b></p> <p>Case study 1: Regulation on funeral and wedding</p> <ul style="list-style-type: none"> <li>- Concepts of law, system of law, source of law</li> <li>- Social function of law</li> <li>- Theories to study law</li> </ul> <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>- Peerenborn <i>Báo cáo nghiên cứu về quản lý tòa án ở Trung Quốc</i>, UNDP-Ban chỉ đạo cải cách tư pháp, 2011 (tài liệu chưa công bố) 1-35</li> <li>- Pham Duy Nghia, pgs 9 - 42</li> </ul> <p><b>Additional Readings:</b></p> <p>James Maxeiner, <i>Different Roads to the Rule of Law: Their Importance for Law Reform in Taiwan</i>, Tunghai University Law Review, No. 19, pp. 159-194, December 2003</p>
<b>03/12</b>	<p><b>Law and Development</b></p> <ul style="list-style-type: none"> <li>- Role of law</li> <li>- Law and economics</li> </ul> <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>- UNDP (2011): <i>Law for all</i>, book 1</li> <li>- Pham Duy Nghia, pgs 43 - 87</li> </ul>
<b>05/12</b>	<p><b>Overview of constitutional law</b></p> <ul style="list-style-type: none"> <li>- The people's sovereignty</li> <li>- Constitutionalism</li> <li>- Constitutional protection</li> </ul>

	<p><b>Readings:</b></p> <p>Weingast (2010)</p> <ul style="list-style-type: none"> <li>- PDN 88-135</li> <li>- Thái Vĩnh Thắng (2011): <i>Constitutionalism in Vietnam before the August Revolution 1945</i></li> <li>- Legal documents: Draft of 1992 Constitutional Amendment (09/2013)</li> </ul> <p>Reference: HP VNCH 1967</p>
10/12	<p><b>Legislative procedure</b></p> <p>Legislative initiatives, Priority setting, draft and enforce</p> <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>- Seidman, <i>Assessing a Bill in term of the public interest: The legislator's role in the law-making process</i>, 2003</li> <li>- Seidman (2004) Consider the draft of law, Chapter 1-4</li> <li>- Pham Duy Nghia, pgs 136 – 154</li> <li>- Legal documents: Law on Issuance of Legal Normative Document 2008</li> </ul>
12/12	<p><b>Assess the quality of legal documents</b></p> <p>Criteria and methods of assessing law</p> <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>- Seidman 2004, Chapter 5-9</li> <li>- Ministry of Justice (2011), Handbook for drafting, evaluating and examining impact of Legal Normative Documents</li> <li>- Pham Duy Nghia, pgs 155 - 165</li> </ul>
17/12	<p><b>Do Bilateral and Regional Investment Treaties Facilitate Economic Development?</b> <i>Guest Lecture: Prof Dr Juergen Kurtz (Melbourne Law School)</i></p> <p><i>Readings to be provided by guest lecturer</i></p>
19/12	<p><b>Overview of property law: Land law</b></p> <p><b>Case study 2:</b> Phu My Hung</p> <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>- Truong Thien Thu, Ranjith Perera (2010)</li> <li>- Pham Duy Nghia, pgs 166 -195</li> <li>- Legal documents: BLDS 2005, LDD 2003</li> </ul> <p>Reference: UNPD, Legal Empowerment, Book II (Assets)</p>
26/12	<p><b>Decentralize property right: Enforcing the right of ownership in state-own enterprises</b></p> <p><b>Case study 3:</b> Vinashin</p> <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>- OECD 2007: Guidance on managing state-own enterprises</li> </ul>

	<ul style="list-style-type: none"> <li>- Pham Duy Nghia, pgs 196 - 219</li> <li>- Legal documents: Regulations on State's enforcement of ownership right in State invested firms</li> </ul>
<b>02/01</b>	<p><b>Overview of contract law</b></p> <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>- Pham Duy Nghia, 233 - 265</li> <li>- BLDS 2005 § 121-138; § 388-411</li> </ul> <p>Discussion: Legal framework of contract for PPP projects</p>
	<p><b>Overview of competition law</b></p> <p>Case study 4: Vinapco</p> <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>- PDN: Overview of Competition law</li> <li>- Document: Competition Law, 2004</li> </ul>
<b>07/01</b>	<p><b>Approach to Justice (1): Overview of conflict resolution</b></p> <p><b>Case study 5:</b> Vedan</p> <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>- WB, VDR 2010, (Vietnam Development Report 2010: Current institutions) Chapter 5, pages 85-103</li> <li>- Pham Duy Nghia, pgs 265 - 289</li> <li>- Document: BLDS 2005, Environmental law 2005</li> </ul> <p>Additional reading:</p> <ul style="list-style-type: none"> <li>- UNDP-VN Supreme Court 2010</li> </ul>
<b>10/01</b>	<p><b>Approach to Justice (2): Overview of procedural law and the system of court of justice in Vietnam</b></p> <p>Case study 6: Case of Mrs. Ba Strong</p> <p><b>Readings:</b></p> <ul style="list-style-type: none"> <li>- Tom Ginsburg, <i>Judicial Independence in East Asia: Lessons for China</i>, in Randall Peerenboon, <i>Judicial Independence in China</i>, Cambridge University Press 2010, pp 247-259</li> <li>- Document: HP 1992 (2001), Law of organization of the people's courts 2002</li> </ul>
<i>14/01 a.m.</i>	<i>8.30-11.45: Group Presentation 01 - 03</i>
<i>14/01 a.m.</i>	<i>13.30-17.00: Group Presentation 04 – 06</i>
<i>16/01 a.m.</i>	<i>08.30 -11.45: Group Presentation 07- 09</i>
<i>16/01a.m.</i>	<i>13.30-17.00: Group Presentation 10 -12</i>