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Law and Development Classification Plan

by Morris L. Cohen
Luke T. Lee
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Law and Population Book Series

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- 5/ *Human Rights and Population: From the Perspectives of Law, Policy and Organization* (Medford, Massachusetts: Law and Population Programme, 1973).
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- 7/ *The United Nations and Population: Major Resolutions and Instruments* (New York: United Nations Fund for Population Activities, 1974).
- 8/ *Le Droit et la Croissance de la Population en Roumaine*, Ioan Ceterchi, Victor D. Zlateacu, Ioan M. Copil, and Petre Anca, (Bucarest: Commission Nationale de Démographie de la République Socialiste de Roumaine, 1974).
- 9/ *Law and Population in the Philippines* (Medford, Massachusetts: Law and Population Programme, 1974).
- 10/ *La Ley y la Población en Colombia*, Oscar Lopez Pulecio (Medford, Massachusetts: Law and Population Programme, 1973).
- 11/ *Symposium on Law and Population: Proceedings, Background Papers and Recommendations* (New York: United Nations Fund for Population Activities, 1975).

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- 3/ *Law and Population Growth in Eastern Europe*, by Peter B. Maggs (1972).
- 4/ *Legal Aspects of Family Planning in Indonesia*, by the Committee on Legal Aspects of the Indonesian Planned Parenthood Association (1972).
- 5/ *Law and Population Classification Plan*, by Morris L. Cohen (1972).
- 6/ *Law, Human Rights and Population: A Strategy for Action*, by Luke T. Lee (1972).
- 7/ *Population in the UN System: Developing the Legal Capacity and Programs of UN Agencies*, by Daniel G. Partan (a summary of a book, see item 3 above.) (1972).
- 8/ *The World's Laws on Voluntary Sterilization For Family Planning Purposes*, by Jan Stepan and Edmund H. Kellogg (1973).
- 9/ *Law and Population Growth in Singapore*, by Peter Hall (1973).
- 10/ *Law and Population Growth in Jamaica*, by Robert C. Rosen (1973).
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- 12/ *Law and Population Growth in France*, by Jacques Doublet and Hubert de Villedary (1973).
- 13/ *Medical Considerations for Legalizing Voluntary Sterilization*, by F. I. D. Konotey-Ahulu, M.D. (1973).
- 14/ *Brief Survey of Abortion Laws of Five Largest Countries*, by Luke T. Lee (1973).
- 15/ *Anti-Contraception Laws in Sub-Saharan Francophone Africa: Sources and Ramifications*, by Bernard Wolf (1973).
- 16/ *International Status of Abortion Legalization*, by Luke T. Lee (1973).
- 17/ *The World's Laws on Contraceptives*, by Jan Stepan and Edmund H. Kellogg (1973).
- 18/ *Population and the Role of Law in the Americas*, Proceedings of a Seminar of the Human Rights Committee at the 18th Conference of the Inter-American Bar Association (1974).

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LAW AND DEVELOPMENT CLASSIFICATION PLAN

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TABLE OF CONTENTS

	<u>Page</u>
Preface	1
Explanation of Classification Plan	1
Classification Plan	3
I. General	3
II. Economic Development	5
III. Social Development	9
Appendices:	
A. List of Selected Public International Organizations Concerned with Development	12
B. Suggested Source Materials	14

PREFACE

Can law affect economic and social development? Can lawyers, like economists, scientists, planners and public administrators, play a useful role in the developmental process?

This Classification Plan aims to assist those who wish to use law as an instrument of developmental policy. It is based on the assumption that laws do have an impact on socio-economic development, although the exact extent of the impact would vary from state to state and according to the subject matter. It proceeds from the premise that, because of their training and practice in approaching a problem from all different angles and acting on given evidence, lawyers can render invaluable service in the developmental field through the use and coordination of all branches of law. Their preeminence around the world in policy-making positions and, not least, their familiarity with an adversary system where the merits of opposing views can be fully weighed, accentuate the utility of the lawyers in as vexed an area as development.

It has been stated that the genesis of the Industrial Revolution in England could be traced to the adoption of a corporation law which, by limiting the potential liability of each share-holder to his investment, made possible the pooling of savings and resources for joint ventures. On the other hand, the existence of "likin" system (levying of tariffs on the internal movement of goods) was blamed for retarding China's commercial development for centuries.

In between these extreme examples there is a myriad of laws, both formal and customary, which affect socio-economic development--some rather consciously designed, but more often unintentional by-products of the historical, cultural or legal heritage aimed originally elsewhere than at development. Obviously, since the conditions, as well as laws which affect them, vary from country to country, no universal generalization is warranted. And yet it is essential that an attempt be made to identify laws affecting socio-economic development in each country by its own nationals, so that these laws can be brought into line with the overall objectives of development.

The present Classification Plan aims to serve as a guide for the compilation and analysis of laws bearing directly or indirectly on socio-economic development under a proposed Law and Development Project. Such a Project would differ from other projects linking law to development in several important ways:

1. Rather than having lawyers from the developed countries look into the legal systems of the developing countries and prescribe remedies, only the indigenous lawyers are directly involved in the project;
2. Instead of segregating economic from social development, the present project aims at integrating the two, for economic development is

impossible without social development, and vice versa;

3. Closely related to point 2 above, the lawyers involved in the project have already been exposed to the interdisciplinary approach through cooperation with sociologists, etc., in the Law and Population Projects in various countries, funded mostly by the UNFPA/UNDP, but also by the World Bank, the Smithsonian Institution, the IPPF, the Ford Foundation, etc.;

4. Government planners, policy-makers and legislators are brought into the project from the start, thus not only profiting from their expertise and experience, but also insuring that the end products will be put to good use instead of on the shelves.

It may be noted that the present Classification Plan has profited greatly from the Law and Population Classification Plan formulated by Professor Morris L. Cohen and published in 1972 (Law and Population Monograph Series No. 5). The objectives of the earlier plan remain mutatis mutandis the same as those of the present, namely, to:

1. suggest the various types of law which might affect development in any given country, and which should therefore be scrutinized by researchers; and
2. provide a pattern or format for the compiling and reporting which would, hopefully, be adopted generally and thus result in full comparability among reports.

Since its publication in 1972, the Law and Population Classification Plan has served as the basis for the compilation and reporting of laws affecting population by 26 Law and Population Projects throughout the world. These projects are usually based at the law faculties of leading universities which cooperate with social scientists and public health officials in relating law to population problems. The Classification Plan has not only achieved the objective of comparability among reports from different countries, but also, as a significant by-product, made countries aware of the inter-relationship among different population-related laws and work toward their reform and coordination.

Many of these two-year projects are reaching the final stage. Their personnel are anxious to continue utilizing the infrastructures already established for their inter-disciplinary work, now to tie the population factor to socio-economic development, as called for by the World Population Plan of Action adopted by the World Population Conference in Bucharest. Instead of cooperating mainly with sociologists as required under the Law and Population Projects, lawyers would now work closely with the faculties of economics, agriculture, public administration, etc., as well as national planning commissions or ministries. It is in response to such widespread interest in relating law to development that the present Classification Plan is formulated.

Since the Law and Population Projects have already taken essentially the sociological perspective of development, only the economic perspective needs to be emphasized for those countries which have had such projects. As for countries without such projects, both the economic and social perspectives must, of course, be covered.

Significantly, the World Population Plan of Action includes among its objectives the following (paragraph 15 (d)):

To advance national and international understanding of the complex relations among the problems of population, resources, environment and development, and to promote a unified analytical approach to the study of these interrelationships and to relevant policies. (Emphasis supplied.)

One such approach to which the Plan of Action accords "high priority" lies in "the review and analysis of national and international laws which bear directly or indirectly on population factors" (paragraph 78 (h)). Might it not be time to extend that same legal approach to socio-economic development? For law, after all, not only reflects, but also implements, a determined policy, whether in the population or socio-economic development field.

It cannot be over-emphasized that this Classification Plan takes no position regarding the comparative advantages of any political, ideological, social or economic systems, as well as policies, in terms of developmental goals, so long as the basic human rights are observed. Each country must decide for itself the system or policy best suited to its conditions and needs.

Just as the Law and Population Classification Plan did not call for the compilation of all the laws listed therein, the Law and Development Classification Plan similarly leaves the task of selecting the relevant laws for study to each country project concerned. The latter must decide for itself the relevance of specific categories of laws to its development and determine its own priorities for law review and reform.

It cannot be overemphasized that the laws listed in this Plan should not be treated in isolation, but in conjunction with other laws in furtherance of a particular developmental policy. Thus, a policy on income distribution must of necessity take into account not only labor laws but also the laws on taxes--progressive income tax, inheritance tax, etc.--among others. A policy in favor of foreign investments must obviously involve a consideration of such laws as those governing foreign exchange, taxation and nationalization, which may affect the climate for such investments. Promotion of tourism entails a re-examination of visa formalities, rules governing customs inspection and duties, airport taxes, measures for conserving and restoring historical and cultural monuments, etc.

Close cooperation with experts in other disciplines is essential. Economists, for example, have a particular perspective of the effects of minimum wage legislation on the welfare of labor because of the impact of that legislation on unemployment. Anthropologists might look with disfavor on laws promoting labor migration because of its disruptive effects on family structure, whereas others would tend to see only the benefits derived by the migrant workers themselves. A farm management specialist and a rural sociologist will probably view very differently land reform laws which break up large land holdings.

Finally, a policy stressing rural development--affecting as it does the well-being of nearly 80 per cent of the population in developing countries, as well as constituting an essential element of development--would of necessity involve a large number of laws. Thus, a special classification plan on rural development might be formulated to cover these laws which would include not only those listed in the Law and Development Classification Plan, but also others of particular relevance to rural development. An example of the latter may be the creation of subdivisions under I576 (Internal movement) on rural-urban and inter-regional rural movements. Also, pesticides, insecticides and fertilizers may be given special mention under both I280 (Customs and tariffs) and I620 (Pollution). The contents of radio programmes may be spelled out to include market information and agricultural technologies under I830 (Radio and television). A similar approach may be used in dealing with such other policy goals as urban development, land reclamation, the equality of the sexes, and the rights of the child and the elderly.

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Luke T. Lee
Director

EXPLANATION OF CLASSIFICATION PLAN

The following is a Classification Plan which has been prepared to assist in the compilation and arrangement of material affecting law and development in each country. It is intended both to suggest areas of law which might be worth considering in research, and to provide a standard form for compilation which will make reports from the various countries comparable.

In using this Classification Plan, the following suggestions are offered:

1. The Plan is patterned on a key number system under which an agreed number is always used to identify and locate a legal provision on one given subject. The Plan is divided into three large categories: I. General (for materials dealing with development comprehensively and relating to both economic and social development); II. Economic Development; and III. Social Development. Within each large category, there are various specific topics and subtopics covering areas of consideration in law and development. Annexed to the Plan are two appendices designed to suggest to researchers and reporters sources of material and types of documents which may be useful for this purpose. Appendix A lists international organizations and programs relating to law and development. Many of these organizations regularly produce documentation and publications in this field. Appendix B lists types of source materials which will deal with legal problems of development. Both of these lists are merely designed to be suggestive of sources and can be expanded as necessary.
2. Most countries will not have laws or related material covering all of the fields listed. However, it is necessary to list such subjects here in order both to suggest the fields which should be considered by the researcher, and to provide a category for reporting if, in fact, something significant is found in these fields.
3. Terminology will vary from country to country, and it is difficult to choose terms which will be applicable for all conditions. It is requested, however, that reporters stay as close to the terms suggested as possible in light of the desirability of keeping the reports comparable.
4. There are many "open" or "unused" numbers in the series which do not fall under any named category. These should provide space for expansion of the Plan to include additional subjects, as may be necessary.

5. "General" and "miscellaneous" subdivisions have not been used and, where categories have been divided, such material can simply be assigned the first major number for each subject category.
6. In the case of a federal state, it may not be feasible to collect all the significant laws of each component political subdivision. In such cases, the laws of the central government should be covered, plus those of major representative subdivisions.
7. In many cases, a law might be considered as falling appropriately in more than one category. In such cases, the law should be reported in one category and a cross-reference put in the category where it is not listed.
8. Each of the three major divisions of the Plan (General, Economic Development, and Social Development) contain duplicating numbers. Therefore, when the Plan is used to classify and designate particular documents, the classification number assigned to the document must contain two components: a Roman number for the appropriate major division of the Plan and an Arabic number for the relevant subject category. Thus, a law on soil conservation would be designated I650 - the I representing the first major division, "General," and the 650 representing the subject category "Soil Conservation."
9. We would appreciate some indication as to whether a certain law is, in fact, enforced, or the degree to which it is enforced.

CLASSIFICATION PLAN FOR LAW AND SOCIO-ECONOMIC DEVELOPMENT

I. General

100 Comprehensive

110 Comprehensive national plans of development and general laws concerning development

120 Comprehensive international agreements and instruments (relevant to the country reported on)

150 Foreign grants, loans and other aids to development

170 Miscellaneous legal materials relating to comprehensive development

Individual Fields

200 Government (except monetary and financial sector, for which, see II-B-11)

210 Main branches of Government concerned with development

230 Civil service and public employment

240 Public administration and management

300 Public order and safety

400 Compulsory services

430 Military service

460 Labor conscription

500 Civil and human rights

510 Rights of expression (speech, religion, assembly)

520 Rights of the person (including rights of accused, search and seizure, habeas corpus, etc.)

530 Equality of sexes

540 Equality of status for minorities

550 Protection of privacy

560 Naturalization and citizenship

- 570 Freedom of movement
 - 572 Emigration
 - 574 Immigration
 - 576 Internal movement
- 580 Property rights (to own, transfer, and devise property)
- 600 Ecology
 - 610 Environment generally
 - 620 Pollution
 - 622 Air
 - 624 Sea
 - 626 Rivers and lakes
 - 640 Protection of nature and wildlife
 - 650 Soil conservation
 - 660 Reforestation
 - 670 Noise control
- 800 Communication and cultural media
 - 810 Postal service
 - 820 Telephone and telegraph
 - 830 Radio and television
 - 840 Cinema and theatre
 - 850 Arts and literature
 - 870 Press and publishing

II. Economic Development

- 100 Production control
 - 110 Centralized planning
 - 120 Decentralized planning
- 150 Nationalization, expropriation, eminent domain
 - 160 Domestic property
 - 170 Foreign property
 - 180 Mixed ownership
- 200 Nature of enterprises
 - 210 Government monopoly
 - 220 Joint public-private enterprises
 - 230 Foreign enterprises
 - 235 Subsidies
 - 240 Investment incentive codes
- 250 Import and export
 - 260 Foreign exchange regulation
 - 270 Incentives and subsidies
 - 280 Customs and tariffs (and other barriers)
 - 290 Quotas and prohibition
- 300 Land use and urban planning
 - 310 Real property law
 - 320 Land tenure and reform
 - 330 Zoning
 - 340 Housing
 - 345 Rental controls

- 350 Transportation (regulation, financing and use)
 - 360 Rate regulation
 - 370 Subsidies
 - 380 Traffic control
 - 390 Government infrastructure (ports, highways, airports, etc.)
- 400 Commerce
 - 405 Commercial law generally
 - 410 Contract law generally
 - 420 Distribution of goods
 - 430 Price controls
 - 440 Advertising and its regulation
- 450 Business organization
 - 460 Individual enterprises
 - 470 Corporations
 - 480 Partnerships
 - 485 Cooperatives
 - 490 Securities regulation
 - 495 Antitrust
- 500 Intellectual property and transfer of technology (copyright and patents)
 - 505 Scientific management
 - 510 Research and development
 - 515 Physical sciences
 - 520 Social sciences
 - 525 Humanities

530 Labor

- 535 Industrial disputes**
- 540 Conditions of work**
- 545 Wage controls**
- 550 Guaranteed wage and income subsidies**
- 560 Unionization**
- 570 Workmen's compensation**
- 580 Public works**
- 590 Employment mobility**

600 Monetary and financial sector

- 610 Banking regulation**
- 615 Public banking**
- 620 Monetary controls**
- 625 Financial markets**
- 630 Interest and usury**
- 640 Insurance**

650 Taxation

- 655 Income**
- 660 Corporation**
- 665 Property**
- 670 Inheritance and gift**
- 675 Sales, excise and value-added**
- 680 Taxation administration and procedure**
- 685 Poll tax**
- 690 Wealth tax (cattle, hut, etc.)**
- 695 Depletion allowances**

- 700 Agriculture
 - 710 Price support and stabilization
 - 720 Government marketing, marketing regulation
 - 730 Research and extension
 - 740 Policies concerning agricultural inputs (fertilizer, insecticides, farm machinery, etc.)
 - 760 Soil banks
 - 770 Agriculture credit
- 800 Natural resources and energy
 - 810 Forestry
 - 820 Mining
 - 830 Oil and gas
 - 840 Atomic energy
 - 850 Electrical energy
 - 860 Solar energy
 - 870 Water control
 - 880 Fisheries and wildlife
- 900 Industry
 - 910 Capital goods
 - 920 Consumer goods
 - 930 Chemicals
 - 940 Construction (including highways and railroads)
- 950 Services (including licensing)
 - 960 Tourism
 - 970 Professions
 - 980 Trades and crafts

III. Social Development

100 Education

- 110 Elementary education
- 120 Secondary education
- 130 Vocational training
- 140 Higher education
- 150 Literacy programs
- 160 Adult education programs
- 170 Population and sex education
- 180 Financial assistance
- 190 Equality of education opportunity

200 Public welfare

- 210 Social security generally
- 230 Family and child allowances
- 240 Maternity leaves and benefits
- 250 Subsidies for food, shelter and clothing
- 260 Rights of aged (including old-age and retirement benefits, nursing homes, special housing, etc.)
- 270 Death benefits to survivors
- 280 Unemployment insurance
- 290 Prostitution

300 Public health

- 310 Health insurance and medical assistance
- 320 Hospital development and public clinics
- 330 Medical profession

- 340 Nursing services (including paramedicals and midwives)
- 350 Drugs and pharmaceuticals
- 360 Alcoholic beverage control
- 370 Disease control and preventive medicine
- 380 Mental health
- 390 Fertility regulation (see 600 below)
- 400 Family status
 - 410 Marriage
 - 420 Divorce, separation and annulment
 - 430 Alimony and support
 - 450 Rights of married women
 - 470 Extended family obligations
 - 480 Polygamy and polyandry
- 500 Children and child welfare
 - 510 Protection of children
 - 520 Parental control and custody
 - 540 Obligation of support
 - 560 Legal disabilities of minors
 - 570 Legitimacy of children
 - 580 Adoption
- 600 Fertility regulation
 - 610 Contraception
 - 630 Sterilization
 - 650 Menstrual regulation
 - 670 Abortion

800 Recreation

830 Sports and games

860 Parks

900 National, cultural and religious heritage (including historical activity, archeology, folk culture, etc.)

APPENDIX A

List of Selected Public International Organizations Concerned with Development

WORLDWIDE

CMEA	Council for Mutual Economic Assistance
DAC	Development Assistance Committee of the OECD
ECOSOC	Economic and Social Council of the UN
FAO	Food and Agriculture Organization of the UN
GATT	General Agreement of Tariffs and Trade
IACB	Inter-Agency Consultative Board
IAEA	International Atomic Energy Agency
IATA	International Air Transport Organization
IBRD	International Bank for Reconstruction and Development (World Bank)
ICAO	International Civil Aviation Organization
IDA	International Development Association
IFC	International Finance Corporation
ILO	International Labour Organisation
IMCO	Intergovernmental Maritime Consultative Organization
IMF	International Monetary Fund
ITU	International Telecommunication Union
ODA	Overseas Development Administration
OECD	Organization for Economic Cooperation and Development
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme

UNEP **United Nations Environment Programme**

UNFPA **United Nations Fund for Population Activities**

UNICEF **United Nations Children Fund**

UNIDO **United Nations Industrial Development Organization**

UPU **Universal Postal Union**

WFP **World Food Programme**

WHO **World Health Organization**

WMO **World Meteorological Organization**

APPENDIX B

SUGGESTED SOURCE MATERIALS

Primary Sources

1. Constitutional Provisions
2. Collections of Laws (including Codes)
3. Separate Laws and Ordinances
4. Administrative Regulations (including Rules and Orders, Instructions, etc.)
5. Legislative Documents (including Legislative Reports, Debates, Hearings, etc.)
6. Judicial Decisions
7. Administrative Decisions, Rulings and Opinions
8. Sources of Local Law (of governmental units smaller than national and state entities)
9. Customary Law
10. Treaties, Covenants and Other International Agreements
11. Resolutions and Declarations of International Organizations

Secondary Sources

1. Commentaries and Treatises
2. Encyclopedia Articles
3. Manuals
4. Loose-leaf Services
5. Periodical and Festschriften Articles
6. Conference Proceedings
7. Statistical Studies and Handbooks
8. Documents and Reports of International Organizations

- 19/ *Legal Aspects of Menstrual Regulation*, by Luke T. Lee and John M. Paxman (1974).
- 20/ *Symposium on Law and Population: Text of Recommendations*, Tunis, June 17-21, 1974.
- 21/ *Law and Population Growth in Iran*, Parviz Saney (1974).
- 22/ *Law and Population Growth in Kenya*, U. U. Uche (1974).
- 23/ *Law and Population Growth in Mexico*, by Gerardo Cornejo, Alan Keller, Susana Lerner, Leandro Azuara (1975).
- 24/ *The Impact of Law on Family Planning in Australia*, by H.A. Finlay (1975).
- 25/ *The World's Laws and Practices on Population and Sexuality Education*, by Edmund H. Kellogg, David K. Kline and Jan Stepan (1975).
- 26/ *Pregnancy and Abortion in Adolescence: Legal Aspects*, by Luke T. Lee and John M. Paxman (1975).
- 27/ *Law and Population Policy: Some Suggestions for Determining Priorities and Estimating Impact*, by John U. Farley and Steven S. Tokarski (1975).
- 28/ *Legal Implications of the World Population Plan of Action*, by Luke T. Lee (1975).
- 29/ *Law and Population in Lebanon*, by George M. Dib (1975).
- 30/ *Annual Review of Population Law, 1974*, International Advisory Committee on Population and Law (1975).
- 31/ *Law and Population Growth in Chile*, by José Sulbrandt and María Alicia Ferrera (1975).
- 32/ *Law and the Status of Colombian Women*, by Josefina Amezcua de Almeyda (1975).
- 33/ *Law and Population Growth in Ghana*, by Richard B. Turkson (1975).
- 34/ *Law and Population in Brazil*, by Walter Rodrigues, João Antônio Gordilho de Proença, Maria Alice Paiva, Fernando de Queiroz Mattoso, Leo de Affonseca, Otávio Augusto de Pavia, Theognis Nogueira and Benjamin Moraes Filho (1975).
- 35/ *Law and Population Growth in Ethiopia*, by Daniel Haile and Erku Yimer (1976).
- 36/ *Reform of Laws Affecting Population Growth: Recent Developments*, by Edmund H. Kellogg (1976).
- 37/ *North African Migrants Under West European Law*, by Peter B. Maggs and Luke T. Lee (1976).
- 38/ *Law and Development Classification Plan*, by Morris L. Cohen, Luke T. Lee and Jan Stepan (1976).

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