

# Centre for Asian Legal Studies

21 August 2012, Tuesday ✦ 10.00am – 12.00pm ✦ Lee Sheridan Room, Eu Tong Sen Building, NUS (BTC)

## ***What comes after Law and Development?***

## ***Why 1970s Law and Development recast as the Rule of Law since the 1990s doesn't work in the Islamic Setting, and Why?***

**by Associate Professor David K. Linnan**

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### **ABSTRACT**

The "Law and Development" movement was born in the 1960s among US legal academics active mostly in Latin America; it reemerged in the 1990s in Eastern European work under the Rule of Law rubric, and has been a prominent element of US legal development efforts particularly in the Islamic world post 9/11. It has been the US intellectual "brand" since the 1960s, but I think it is empirically wrong and ideological in nature. The relevant questions are how to prove this, and what might replace it intellectually? These are pressing questions because there are other alternatives (Beijing Consensus, etc.), that are now under active consideration in the non-Western world in legal development terms. My conclusion is that successful legal development is premised more upon attention to legitimacy and related psychological factors rather than new institutional economics or efficiency-based approaches (e.g., transaction cost economics) commonly pursued by international financial institutions like the World Bank, or bilateral development agencies like USAID, GTZ or CIDA.

Can law be employed to shape behavior as a form of social engineering, or must social behavior change first, relegating legal change to follow as form of ratification or reinforcement of changed behavior? I published in June 2012 an edited Ashgate volume entitled *Legitimacy, Legal Development & Change: Law and Modernization Reconsidered*. It addresses the legal change question more broadly, and so I include my narrative introduction covering 23 country chapters as case studies and will talk from my separate theory chapter and three Indonesia focused chapters as examples. The underlying question is whether and how does changing law formally versus changing behavior in fact work empirically, so we explore these questions in the developing country context, but the answers may be equally relevant for domestic legal change.

### **ABOUT THE SPEAKER**



David K. Linnan is a scholar of comparative, economic and public international law with a special interest in Asian law. He is Associate Professor at the University of South Carolina School of Law, and the Program Director for the Law & Finance Institutional Partnership (<http://www.lfip.org>), a legal and financial sector reform project run from Jakarta via a consortium of Indonesian and foreign universities. His recent publications include *Legitimacy, Legal Development and Change: Law and Modernization Reconsidered* (Ashgate 2012), *Muslim and Christian Understanding: Theory and Application of "A Common Word"* (with Waleed El-Ansary, Palgrave Macmillan 2010), and *Enemy Combatants, Terrorism, and Armed Conflict Law: A Guide to the Issues* (Praeger Security International, 2008).