



UNIVERSITAS INDONESIA



UNIVERSITY OF
SOUTH CAROLINA

CONTRACTS LAW IN ASIA

ARE WE LOOKING AT THE RIGHT THINGS?

**Prof David K. Linnan
LAW E506 Class One**

01/05/04

APPROACH

Coursepage:

<http://www.lfip.org/lawe506>

**LISTSERV asianlaw under class administration link
on coursepage**

**Circa 4 videoconferenced speakers (occasional
Mondays, then room 119)**

Room 133 today & 212 Wednesday

APPROACH

**Not a survey of 10-15 countries'
substantive contracts law**

**Focus on CISG for internationalized
law, plus 3 jurisdictions as examples
(China, Japan & Indonesia) looking at
hidden themes**

HIDDEN THEMES

- 1. Formal Enforcement Systems & Economic Activity**
- 2. Character of Formal vs. Informal Enforcement Systems (instead of just courts alone, foreign vs. domestic courts, vs. arbitration, vs. quasi-public or political risk insurance (OPIC, Hermes, etc.), vs. business reputation**

HIDDEN THEMES

- 3. Formally, (most) Asian law systems are Civil Law in origin either due to colonial history or modernization approaches (perhaps mixed now)**
- 4. Balancing formal legal system claims re indigenous law vs. formalism of Civil Law (plus enforcement issues, plus legal pluralism)**

HIDDEN THEMES

- 5. Arguments about cultural vs. economic explanations of social behavior including law**
- 6. Prob. of discrete contract law (neo-classical microeconomics) vs. relational business in the rule & enforceability of promises generally**

HIDDEN THEMES

- 7. Role of the State in the Economy which is a different creature than private parties (public int'l law sovereign immunity vs. Continental pattern administrative courts & law)**

3 READINGS

Manulife (Linnan)

Grand Theory Limits (Alford)

Taxonomy and Change (Mattei)

MANULIFE

What happened factually?

Whom did it happen to?

**What were the differing vantage points
& why?**

MANULIFE

How many of our hidden themes are in the story?

OTHER READINGS

What to take away from Alford & Mattei?

WEDNESDAY

For next class' readings, see course materials link on course page

Meet in room 212