**Transnational Governance and Regulation**

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Pick 423

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This course surveys some key changes in the character, scale and scope of regulation over the past 25 years. In particular, we will be concerned with the rise of private-, self- and experimentalist forms of governance within but especially across national political economies. Key questions will be: What are the distinctive organizational and governance features of the new historical forms of regulation and governance? How are NGOs, International Organizations and States involved in the new forms of regulation? How effective are the new forms (How straightforward is it to achieve compliance?)? How should we understand the relationship between uncertainty and learning in the new regulatory and governance forms? What kinds of accountability and legitimacy issues are posed by the new arrangements and what kinds of mitigation measures seem to be in play? Empirically, the course will address a broad range of regulatory areas (finance, trade, health and safety, climate change), but because there is a nice grouping of debates in two areas, Forestry regulation and Labor Standards, we will devote a lot of attention to those issues.

Please note that I will have to miss one class due to a scheduling conflict. As a result, there will only be 8 class meetings this quarter.

**Requirements**

Students will be expected to be prepared and participate actively in class discussion. A final paper of no more than 20 pages will be required. The ideal paper will select one regulatory issue (climate change, financial regulation, health and safety, WTO, forestry, labor standards—etc) and investigate it along one of the dimensions addressed in the course: Is it experimentalist? What sort of private or meta-regulatory structures exist? Do they compete with alternative arrangements? How is compliance achieved? Are they legitimate and accountable? Students can ask the instructor for reading suggestions on particular cases. An effort will also be made to make a case article archive on the chalk site for the course.

**Texts:**

All texts are available as PDF files on the chalk site. The following two books are available for purchase at the Seminary coop:

Jessica F. Green, 2014, *Rethinking Private Authority. Agents and Entrepreneurs in Global Environmental Governance*, (Princeton University Press)

Walter Mattli and Ngaire Woods, eds. 2009, *The Politics of Global Regulation*, (Princeton University Press)

**Week 1: New World of Regulation: From Command & Control and Capture to Responsive- and Meta-regulation**

Ian Ayres & John Braithwaite, *Responsive Regulation*, Chapters 1-2

Christine Parker, *The Open Corporation. Effective Self-Regulation and Democr*acy, Chapters 1 & 9

Sabel, Charles F. 2004. “Beyond Principal-Agent Governance: Experimentalist Organizations, Learning and Accountability”, Engelen, Ewald and Sie Dhan Ho, Monika (eds.), *De Staat van de Democratie. Democratie vorbij de Staa*t, Amsterdam: Amsterdam University Press, 173-95.

Kjær, Anne Mette, 2004: “Governance in Public Administration and Public Policy: Steering Inter-Organizational Networks”, in Kjær, *Governance*, Cambridge: Polity Press, 19-58.

Posner, Richard, (2013) “The Concept of Regulatory Capture: A Short, Inglorious History”, in Carpenter, Daniel, and David A. Moss, eds. *Preventing regulatory capture: special interest influence and how to limit it*. Cambridge University Press, , pp 57-68

Gilad, Sharon (2010), "It runs in the family: Meta‐regulation and its siblings." *Regulation & Governance* 4.4: 485-506.

**Week 2: Globalization & Governance:**

Djelic, Marie-Laure and Sahlin-Andersson, Kerstin. 2006. “Introduction: A World of Governance: The Rise of Transnational Regulation”, in Djelic, Marie-Laure and Kerstin Sahlin-Andersson (eds), *Transnational Governance,* Cambridge: Cambridge University Press, 1-30.

Hale, Thomas and Held, David. 2011. “Editors’ Introduction: Mapping changes in Transnational Governance”, in Hale, Thomas and David Held (eds), *Handbook of Transnational Governance,* Cambridge/UK: Polity Press, 17-36.

Abbott, Kenneth W. and Snidal, Duncan. 2009. “The Governance Triangle: Regulatory Standards Institutions and the Shadow of the State”, in Mattli, Walter and Ngaire Woods (eds), *The Politics of Global Regulation,* Princeton: Princeton University Press, 44-88.

Grainne de Burca, Robert O. Keoahne, and Charles Sabel [*Global Experimentalist Governance*](http://www2.law.columbia.edu/sabel/papers/BJOP%20Feb%2018%20final%20version.pdf), with, in *British Journal of Political Science*, Vol. 44, No. 03, July 2014.

**Recommended:**

Kenneth W. Abbott and Duncan Snidal, 2013, “Taking responsive regulation transnational: Strategies for international organizations”, *Regulation & Governance* Special Issue: Twenty Years of Responsive Regulation: An Appreciation and Appraisal

[Volume 7, Issue 1,](http://onlinelibrary.wiley.com.proxy.uchicago.edu/doi/10.1111/rego.2013.7.issue-1/issuetoc)pages 95–113, March

**Week 3: Experimentalism—The EU as an example**

Charles Sabel & Jonathan Zeitlin,  *[Learning from Difference:  the New Architecture of Experimentalist Governance in the European Union](http://www2.law.columbia.edu/sabel/papers/learning%20from%20difference%20ELJ%202008.pdf)*, in *European Law Journal*, Vol. 14, No. 3, May 2008, pp. 271–327.

Symposium on Experimentalist Governance in the EU in ***Regulation and Governance***, Sep 2012, Vol. 6 Issue 3, 371-426:

[Eckert, Sandra; Börzel, Tanja A, Experimentalist governance: An introduction.](http://web.a.ebscohost.com.proxy.uchicago.edu/ehost/viewarticle?data=dGJyMPPp44rp2%2fdV0%2bnjisfk5Ie46bZRtq%2b3ULKk63nn5Kx95uXxjL6nr0expq1KrqezOLSwsFC4qLI4zsOkjPDX7Ivf2fKB7eTnfLujt1GuqrZRtaq2PurX7H%2b72%2bw%2b4ti7evLepIzf3btZzJzfhruurkmwqrdLsZzkh%2fDj34y73POE6urjkPIA&hid=4112" \o "Experimentalist governance: An introduction. )

***Regulation & Governance****.*Sep 2012, Vol. 6 Issue 3, p371-377. 7p. DOI: 10.1111/j.1748-5991.2012.01163.x.

Börzel, Tanja A.,  [Experimentalist governance in the EU: The emperor's new clothes?](http://web.a.ebscohost.com.proxy.uchicago.edu/ehost/viewarticle?data=dGJyMPPp44rp2%2fdV0%2bnjisfk5Ie46bZRtq%2b3ULKk63nn5Kx95uXxjL6nr0expq1KrqezOLSwsFC4qLI4zsOkjPDX7Ivf2fKB7eTnfLujt1GuqrZRtaq2PurX7H%2b72%2bw%2b4ti7evLepIzf3btZzJzfhruurkmwqrdMsJzkh%2fDj34y73POE6urjkPIA&hid=4112" \o "Experimentalist governance in the EU: The emperor's new clothes? ) ***Regulation & Governance****.*Sep2012, Vol. 6 Issue 3, p378-384. 7p. DOI: 10.1111/j.1748-5991.2012.01159.x.

[Verdun, Amy. Experimentalist governance in the European Union: A commentary.](http://web.a.ebscohost.com.proxy.uchicago.edu/ehost/viewarticle?data=dGJyMPPp44rp2%2fdV0%2bnjisfk5Ie46bZRtq%2b3ULKk63nn5Kx95uXxjL6nr0expq1KrqezOLSwsFC4qLI4zsOkjPDX7Ivf2fKB7eTnfLujt1GuqrZRtaq2PurX7H%2b72%2bw%2b4ti7evLepIzf3btZzJzfhruurkmwqrdMr5zkh%2fDj34y73POE6urjkPIA&hid=4112" \o "Experimentalist governance in the European Union: A commentary. ) ***Regulation & Governance****.*Sep 2012, Vol. 6 Issue 3, p385-393. 9p. DOI: 10.1111/j.1748-5991.2012.01161.x

Fossum, John Erik. [Reflections on experimentalist governance.](http://web.a.ebscohost.com.proxy.uchicago.edu/ehost/viewarticle?data=dGJyMPPp44rp2%2fdV0%2bnjisfk5Ie46bZRtq%2b3ULKk63nn5Kx95uXxjL6nr0expq1KrqezOLSwsFC4qLI4zsOkjPDX7Ivf2fKB7eTnfLujt1GuqrZRtaq2PurX7H%2b72%2bw%2b4ti7evLepIzf3btZzJzfhruurkmwqrdLtpzkh%2fDj34y73POE6urjkPIA&hid=4112)

***Regulation & Governance****.*Sep2012, Vol. 6 Issue 3, p394-400. 7p. DOI: 10.1111/j.1748-5991.2012.01158.x.

[Kumm, Mattias. Constitutionalism and experimentalist governance.](http://web.a.ebscohost.com.proxy.uchicago.edu/ehost/viewarticle?data=dGJyMPPp44rp2%2fdV0%2bnjisfk5Ie46bZRtq%2b3ULKk63nn5Kx95uXxjL6nr0expq1KrqezOLSwsFC4qLI4zsOkjPDX7Ivf2fKB7eTnfLujt1GuqrZRtaq2PurX7H%2b72%2bw%2b4ti7evLepIzf3btZzJzfhruurkmwqrdLt5zkh%2fDj34y73POE6urjkPIA&hid=4112" \o "Constitutionalism and experimentalist governance. )

***Regulation & Governance****.*Sep2012, Vol. 6 Issue 3, p401-409. 9p. DOI: 10.1111/j.1748-5991.2012.01154.x.

Sabel, Charles F.; Zeitlin, Jonathan. [Experimentalism in the EU: Common ground and persistent differences.](http://web.a.ebscohost.com.proxy.uchicago.edu/ehost/viewarticle?data=dGJyMPPp44rp2%2fdV0%2bnjisfk5Ie46bZRtq%2b3ULKk63nn5Kx95uXxjL6nr0expq1KrqezOLSwsFC4qLI4zsOkjPDX7Ivf2fKB7eTnfLujt1GuqrZRtaq2PurX7H%2b72%2bw%2b4ti7evLepIzf3btZzJzfhruurkmwqrdLs5zkh%2fDj34y73POE6urjkPIA&hid=4112) ***Regulation & Governance****.*Sep2012, Vol. 6 Issue 3, p410-426. 17p. DOI: 10.1111/j.1748-5991.2012.01157.x.

# Week 4: Private Governance

Vogel, David. 2009. “The Private Regulation of Global Corporate Conduct”, in Mattli, Walter and Ngaire Woods (eds), *The Politics of Global Regulation*. Princeton: Princeton University Press, 151-188.

Auld, G., S. Renckens, and B. Cashore. 2014. “Transnational Private Governance Between the Logics of Empowerment and Control.” *Regulation and Governance*, Vol 9 (2) pp 108-124

Bartley, Tim. 2007. “Institutional Emergence in an Era of Globalization: The Rise of Transnational Private Regulation of Labour and Environmental Conditions”. *American Journal of Sociology* 111 (2): 297-351.

Dingwerth, Klaus. 2008. “Private Transnational Governance and the Developing World: A Comparative Perspective”. *International Studies Quarterly* 52: 607–634.

Jessica Green, 2014, *Rethinking Private Authority. Agents and Entrepreneurs in Global Environmental Governance,* (Princeton University Press) Chs 1-3

**Week 5: Explaining compliance**

Robert Kagan, Neil Gunningham and Dorothy Thornton, “Fear, duty and regulatory compliance: Lessons from three research projects”

Jonathan C Borck and Cary Coglianese, “Beyond compliance: explaining business participation in voluntary environmental programs”

Bridget Hutter, “Negotiating social, economic and political environments: compliance with regulation within and beyond the state”

Benjamin Cashore, Greme Auld and Stefan Renckens, “The impact of private, industry and transnational civil society regulation and their interaction with official regulation

--all in: Christine Parker and Vibeke Lehmann Nielsen, eds, *Explaining Compliance. Business Responses to Regulation* (Edward Elgar) 2011

**Week 6: Competition and cooperation within governance fields**

Eberlein, Burkard, Abbott, Kenneth, Black, Julia, Meidinger, Errol and Wood, Stepan. 2013. „Transnational Business Governance Interactions: Conceptualization and Framework for Analysis“. *Regulation & Governance,* DOI: 10.1111/rego.12030.

# Gulbrandsen, Lars H. 2012. “Dynamic Governance Interactions: Evolutionary Effects of State Responses to Non-State Certification Programs“. *Regulation & Governance,* DOI: 10.1111/rego.12005

# Gunningham, Neil, Robert A. Kagan, and Dorothy Thornton. (2004) "Social license and environmental protection: why businesses go beyond compliance." *Law & Social Inquiry* 29.2: 307-341.

Overdevest, C. and J. Zeitlin. 2012. “Assembling an Experimentalist Regime: Transnational Governance Interactions in the Forest Sector.” *Regulation & Governance* V. 8, No 1 pp 22-48

Cashore, B. and M. W. Stone. 2014. “Does California Need Delaware? Explaining Indonesian, Chinese, and United States Support for Legality Compliance of Internationally Traded Products.” *Regulation & Governance* V. 8, No 1, pp 49-73

Bartley, T. 2014. “Transnational Governance and the Re-Centered State: Sustainability or Legality?.” *Regulation & Governance* V. 8, No 1, pp 93-109

**Week 7: Labor Standards**

Nadvi, K. and G. Raj-Reichert. 2015. “Governing Health and Safety at Lower Tiers of the Computer Industry Global Value Chain.” *Regulation & Governance*, 9 (3) 243-258

Distelhorst, G., R. Locke, T. Pal, and H. Samel. 2015. “Production Goes Global, Compliance Stays Local: Private Regulation in the Global Electronics Industry.” *Regulation & Governance*, 9 (3) 224-242

Distelhorst, G. and J. Hainmueller. 2014. “Does Lean Improve Labor Standards? Management and Social Performance in the Nike Supply Chain.” *Watson Institute for International Studies Working Paper*

Toffel, M. W., J. L. Short, and M. Ouellet. 2015. “Codes in Context: How States, Markets, and Civil Society Shape Adherence to Global Labor Standards.” *Regulation & Governance*, 9 (3) pp 205-223

Charles Sabel, [On Richard M. Locke, *The Promise and Limits of Private Power: Promoting Labor Standards in a Global Economy*](http://www2.law.columbia.edu/sabel/papers/On%20Richard%20Locke.pdf), in *Socio-Economic Review*, Vol. 12, Issue 1, January 2014.

**Class 8: Accountability and Legitimacy**

Black, Julia. 2008. “Constructing and Contesting Legitimacy and Accountability in Polycentric Regulatory Regimes”. *Regulation & Governance* 2: 137-64.

Buchanan, Allen and Keohane, Robert O. 2006. “The Legitimacy of Global Governance Institutions”. *Ethics & International Affairs* 20 (4): 405-37.

Bexell, Magdalena, Tallberg, Jonas and Uhlin, Anders. 2010. “Democracy in Global Governance: The Promises and Pitfalls of Transnational Actors”. *Global Governance* 16: 81-101.

Bohman, James. 2007. Democracy across Borders. Cambridge/MA: MIT Press. Chapter 1 (From Dêmos to Dêmoi: The Conceptual Foundations of Transnational Democracy), 19-58.

Fisher, Dana and Green, Jessica F. 2004. “Understanding Disenfranchisement: Civil Society and Developing Countries’ Influence and Participation in Global Governance for Sustainable Development”. *Global Environmental Politics* 4, 3: 65-84.

Steffek, Jens, 2007: “Breaking the Nation State Shell: Prospects for Democratic Legitimacy in the International Domain”, in Achim Hurrelman et al. (eds), *Transforming the Golden-Age State* (Houndmills: PalgraveMacmillan), 109-29.

Macdonald, K. 2015. “The Meaning and Purposes of Transnational Accountability.” *Australian Journal of Public Administration* 73(4):426–36.