

**Series on New Governance, Regulation, and the Law
in conjunction with the
Berlin 2007 International Conference**

**Humboldt University
Berlin, Germany
Thursday, July 26, 2007**

New Governance introduces participatory, experimental, indirect and/or non-binding processes into regulatory spheres that have traditionally been managed using top-down, command and control regulation. These changes, which may lead to a transformation of law as traditionally understood, are controversial and experts are divided on their benefits and costs. In four linked sessions as part of **Berlin 2007**, scholars from several parts of the world will describe recent developments and analyze debates over new governance and the future of law.

Berlin 2007 is a joint international socio-legal studies conference sponsored by the Law and Society Association, the Research Committee on the Sociology Law and socio-legal associations from Germany, the United Kingdom, and Japan. The conference will take place at Humboldt University in Berlin from July 25 to 28, 2007. For information on the Berlin 2007 meeting, please see the Preliminary Program and other information available on the Law and Society Association website (<http://www.lawandsociety.org/>).

As part of Berlin 2007, the University of Wisconsin-Madison's EU Center of Excellence, the Wisconsin Project on Governance and Regulation (WISGAR), the Law and Society Association Collaborative Research Network on Regulatory Governance (CRN), and the Centre for EU Law and Governance at University College London have organized three conceptually linked back-to-back panels and a Featured Session on New Governance and its Critics. These sessions are open to all attendees at the conference. Although participants are welcome to attend all four, each is a free standing event and attendance at all is not required.

1) Law and New Governance: Building Theory From Practice (8:15am to 10:00am)

Chair: Robert A. Kagan, *University of California, Berkeley* (rak@berkeley.edu)

Discussant: John Braithwaite, *Australian National University* (john.braithwaite@anu.edu.au)

The New Collaborative Environmental Governance

*Neil Anthony Gunningham, *Australian National University* (neil.gunningham@anu.edu.au)

Courts as Catalysts: The Role of the Judiciary in New Governance

*Susan Sturm, *Columbia Law School* (ssturm@law.columbia.edu)

Governance and Soft Law: Supra-State and Infrastate Interacting in a New Constitutionalism

*Joxerramon Bengoetxea, *International Institute for the Sociology of Law* (joxerramon@iisj.es)

Behavioral, Institutional, and Socio-legal Antecedents of Decentralized Enforcement in Organizations: An Experimental Approach

*Orly Lobel, *University of San Diego* (lobel@sandiego.edu)

*Yuval Feldman, *Bar-Ilan University* (yfeldman@mail.biu.ac.il)

Abstract:

New governance processes have developed in many substantive fields. The original impetus varies: in some cases they emerge from informal experiments; in others they represent an effort to avoid regulatory impasses; in still others they are part of planned experimentation. This panel will look at a variety of new governance processes in an effort to tease out a theoretical structure adequate to account for these developments and guide future efforts.

2) Regulation and New Governance (10:15am to 12pm)

Chair: Louise Trubek, *University of Wisconsin* (lgrubek@wisc.edu)

Discussant: Stephanie Tai, *University of Wisconsin* (tai2@wisc.edu)

Post-political regulation

*Kerstin Jacobsson, *SCORE, Stockholm University and South Stockholm University College* (kerstin.jacobsson@score.su.se)

*Christina Garsten, *SCORE, Stockholm University* (christina.garsten@score.su.se)

Comparing Emissions Trading and Emissions Regulation

*Gerd Winter, *University of Bremen* (gwinter@uni-bremen.de)

How Reflexive is the Governance of Regulation?

*Colin Scott, *University College Dublin* (colin.scott@ucd.ie)

Comparing Reflexive Regulation and New Governance: Some Examples from Employment Law

*Hugh Collins, *London School of Economics* (h.collins@lse.ac.uk)

*Claire Kilpatrick, *London School of Economics Law Department* (C.Kilpatrick@lse.ac.uk)

Abstract:

“New governance” denotes practices and procedures that affect actors’ behavior in ways that differ from conventional regulation. Because new governance may be participatory, experimental, indirect and/or non-binding, it differs from conventional top-down command and control regulatory law. This panel will examine several new governance processes and compare them with traditional regulatory approaches.

3) Law and New Approaches to EU Governance (12:30pm to 2:15pm)

Chair: David M. Trubek, *University of Wisconsin* (dmtrubek@wisc.edu)

Discussant: Bob Hepple, *Cambridge University* (bgh1000@cam.ac.uk)

EU Governance of Health Care and the Welfare Modernisation Agenda.

*Tamara Hervey, *University of Sheffield* (t.hervey@sheffield.ac.uk)

Any New Governance? Juridification and Networks in EC Competition Law

*Imelda Maher, *University College, Dublin* (imelda.maher@ucd.ie)

Ceci N'est Pas OMC: The Unresolved Ambiguities of EU Policy Co-ordination

*Kenneth Armstrong, *University of London* (k.a.armstrong@qmul.ac.uk)

Reflexive-deliberative Polyarchy: Another Institutional Ideal for European Governance?

*Stijn Smismans, *University of Trento* (smismans@libero.it)

New Governance in the GMO Regulation in the EU

*Patrycja K Dabrowska, *University of Warsaw* (p.dabrowska@uw.edu.pl)

Abstract:

This panel will explore the rise of 'new governance' approaches in EU law, and will do so by reference to a range of substantive policy areas, including health, regulation of biotechnology, social inclusion and competition law. The papers highlight the significance and pervasiveness of new approaches, and the issues they raise for how we think about law in the European Union.

4) Featured Session: New Governance and Its Critics (4:30pm to 6:15pm)

Chair: Cary Coglianese, *University of Pennsylvania* (cary_coglianese@law.upenn.edu)

Discussant: Bronwen Morgan, *University of Bristol* (B.Morgan@bristol.ac.uk)

Competitive Supragovernmental Regulation: How Can it Be Democratic?

*Errol Meidinger, *State University of New York at Buffalo* (emeid@buffalo.edu)

The Rule of Law in the Experimentalist Welfare State: Lessons from American Child Welfare Reform

*William Simon, *Columbia Law School* (wsimon@law.columbia.edu)

Global Governance and Local Constitutionalism

*Andras Sajo, *Central European University* (sajoand@ceu.hu)

Law and New Governance in the EU

*Joanne Scott, *University College London* (joanne.scott@ucl.ac.uk)

The Pluralisation of Business Regulation

*Christine Parker, *University of Melbourne* (c.parker@unimelb.edu.au)

Abstract:

New Governance introduces participatory, experimental, indirect and/or non-binding processes into regulatory spheres that have traditionally been managed using top-down, command and control regulation. These changes, which may lead to a transformation of law as it has been traditionally understood, are controversial and experts are divided on their benefits and costs. In this session, scholars from several parts of the world will describe recent developments and analyze the debate over new governance and the future of law. This panel will explore the nature and rise of new approaches to governance in a number of jurisdictions.