

APSA

European Politics & Society

Newsletter of the European Politics & Society Section of the American Political Science Association

EPS Forum: The Americanization of European Law?

The study of European judicial politics has advanced on multiple fronts in the last decade. This is perhaps most notable in the study of European Community law, which has been characterized increasingly by interdisciplinary scholarship that looks beyond the jurisprudence of the Luxembourg-based European Court of Justice to the interaction of European and national courts and the effects of European law “on the ground.” This issue’s EPS Forum – a debate about the “Americanization” of European law among R. Daniel Kelemen, Robert A. Kagan and Lisa Conant – is a fine exemplar of these trends. Comparing both within Europe and be-

tween Europe and the United States, the authors ask whether, to what extent, and why European judicial politics has become “Americanized,” i.e. characterized by “adversarial legalism” and other aspects of US regulatory and judicial practice. What emerges from the debate is not a simple yes or no, but a series of careful distinctions by all three authors about the sources of change, the sources of continuity, and the specific aspects of “Americanization” that are more or less likely to take root on European soil.

- *The Editors*

The Americanization of European Law?

By **R. Daniel Kelemen**

In the post-War period, European democracies have experienced a profound, multifaceted judicialization of politics. Most scholarly literature on judicialization has focused on the strengthening of courts’ constitutional review powers. However, there is far more to the judicialization of politics than constitutional review. Less dramatic but equally important is the increasing judicialization of day-to-day regulatory and administrative processes. An emerging literature explores the increasing role of lawyers

and courts in these processes across Europe. Some scholars argue that this judicialization is pushing patterns of law and regulation across Europe toward an “American legal style”, while others maintain that entrenched national legal institutions and cultures will block such convergence (see Kelemen and Sibbitt 2004 and Kelemen 2006a for overviews).

Not all authors engaged in these debates mean precisely the same thing when they invoke the notion of American law or American legal style. While no concept can capture all of these understandings of American legal style, Robert Kagan’s notion of “adversarial legalism” comes close. Kagan explains that compared to the legal style prevalent in European countries, American legal style relies on a particularly adversarial, legalistic regulatory style, distinguished by its emphasis on detailed, prescriptive rules, substantial transparency and disclosure requirements, formal and adversarial procedures for resolving disputes, costly legal contestation involving many lawyers, and frequent judicial intervention in administrative affairs

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Letter from the Chair

Dear Fellow Europeanists,

I am delighted to welcome you to the Winter 2006 issue of the European Politics & Society Section's Newsletter. Once again, Richard Deeg, Orfeo Fioretos, and Mark Pollack of Temple University have put together a terrific issue. I hope you find it valuable, interesting, and informative.

In this letter, I would like to update you on recent developments within the European Politics and Society Section.

APSA Meeting Business: The Section's annual meeting took place in Philadelphia this year, and I would like to mention some of the highlights for the benefit of those who were not able to attend the conference or the Section's business meeting there.

One was the election of Paulette Kurzer (University of Arizona) as Program Chair for the 2007 meeting, and Jonas Pontusson as Chair-elect and member of the Steering Committee. Since we already know Paulette from her time as President of the Section, I am confident that the 2007 program will be exciting. Others elected to the Steering Committee for the first time were Karl Kaltenthaler (University of Akron), who also serves as the Section's new Treasurer, and Milada Anna Vachudova (University of North Carolina, Chapel Hill).

I would like to thank the outgoing members of the Steering Committee for their service. In particular, a big thanks is due to Paulette Kurzer and Mark Franklin for their excellent service as Section Chairs over the past year.

Other highlights of the meeting were the awarding of the Section's book and paper awards and the Ernst Haas Dissertation Prize. The award is given for the best book on European politics and society published in the previous year. Craig Parsons (University of Oregon) spoke for the Best Book Award committee, which decided that two books were equally meritorious. This year's award was shared by Giovanni Capoccia (University of Oxford) for *Defending Democracy: Reactions to Extremism in Interwar Europe* (Johns Hopkins University Press, 2005) and Torben Iversen (Harvard University) for *Capitalism, Democracy, and Welfare* (Cambridge University Press, 2005). Robert Cox (University of Oklahoma) presented the

Best Paper Award, which is given for the best paper presented at a panel sponsored by the section at the previous APSA meeting. The committee chose Milada Anna Vachudova's (University of North Carolina, Chapel Hill) paper on "Democratization and the Leverage of International Actors: Illiberal Regimes and the European Union." Finally, John Keeler (University of Washington) spoke on behalf of the committee awarding the Ernst B. Haas Best Dissertation Award. This award is given for the best dissertation on European Politics and Society filed during the previous year. The winner was Deborah Boucoyannis (Harvard University) for a dissertation defended at the University of Chicago on "Land, Courts and Parliaments: The Hidden Sinews of Power in the Emergence of Constitutionalism." Congratulations to all the winners!

Subsequently, we discussed the merits and ways of ensuring that papers given awards by the Section were the actual papers presented at the conference. As well, a discussion ensued as to the best ways to solicit a sufficient number of dissertations for the Haas dissertation award and which dissertations would be acceptable. (Note that dissertations have to be nominated by a department and must be written in English, but they can come from universities within and outside the United States.)

Awards: Please note that nominations for the section's 2006 book, paper, and Haas dissertation awards are due March 1, 2007. Please send these nominations directly to the committee chairs, which are also listed in this newsletter. Details of the committees can also be found on the section's website, <http://www.apsanet.org/~ep/>. Thanks to all the committee members for agreeing to serve.

Newsletter: The Temple editorial team's term is nearing its end, and we are now actively soliciting bids to take on the responsibility of publishing the newsletter on behalf of the Section. See the announcement in the APSA/EPS News and Notes Section in this newsletter with particulars about the process. As importantly, on behalf of the Section, I would like to thank the Temple team for doing a superb job in developing the newsletter into a must-read among Europeanists, and for providing an invaluable (and unselfish) service to the Section. They

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have set an outstanding example for what it means to produce an interesting, timely, and thoroughly professional newsletter, and a high standard for others to follow.

Web site: The European Politics and Society Section's web page can be found at <http://www.apsanet.org/~ep>. We use this site to post section news and announcements, contact information, and the electronic version of this newsletter (see below). For information about the web page contact the webmaster, Leonard Ray (lray2@lsu.edu). I would like to thank Len for his continued willingness to serve the section in this capacity.

Syllabus Bank: Since 2001, the Section has maintained an on-line bank of sample syllabi for European graduate and undergraduate courses. Reflecting the huge changes in both empirical events and European studies scholarship in recent years, the syllabus bank was comprehensively updated in January 2007. See

the announcement in this issue's APSA/EPS News and Notes section, and be sure to check out the syllabus bank itself on-line.

Finally, I would like to thank all of the individuals who have found time in their busy schedules to participate in the European Politics and Society Section's activities. I hope you enjoy this issue of the section newsletter. Please feel free to contact me if you have any questions about the Section, or if you have any ideas about what we might be doing to promote research and teaching on Europe.

I look forward to seeing all of you in Chicago at next year's meeting!

With best wishes for a happy and productive New Year!

Chris Anderson
Cornell University

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(Kagan 2001).

Kagan (1997, 2006a) argues that substantial Americanization of European legal systems is unlikely, because, despite any pressures for Americanization, a number of entrenched institutional and cultural differences will prevent American style adversarial legalism from "blossoming" on European soil. While Kagan rightly identifies entrenched differences that discourage the spread of American-style adversarial legalism in Europe, he underestimates the strength of political and economic forces that are encouraging the spread of American legal style across Europe. As I have argued elsewhere (Kelemen 2006a; Kelemen and Sibbitt 2004), the EU's institutional structure and its ongoing project of market integration generate political incentives and functional pressures that have led policy-makers to enact transparent, judicially enforceable regulations backed by strict public enforcement and increased opportunities for private enforcement. In other words, adversarial legalism is emerging in Europe for much the same reason it emerged earlier in the US. As Kagan himself (2001: 40-54) has em-

phasized, in the US case "Fragmented Governmental Authority" and "Fragmented Economic Power" were both crucial factors behind the emergence of adversarial legalism. So too in Europe.

European integration has unleashed both economic and political pressures that encourage the spread of adversarial legalism. The creation of the single European market has been based on a dual process of deregulation at the national level coupled with reregulation at the European level. The greater diversity of players in liberalized markets undermined traditional, national systems of regulation that relied on trust and informal relationships within insider networks. National regulations that impeded the operation of the single market are replaced with new, pan-European regulatory frameworks. The increased volume and diversity of players and the demands from market participants and governments to ensure a "level playing field," pressures EU policy-makers to rely on a more formal, transparent approach to regulation, backed by vigorous enforcement.

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More generally, the very institutional structure of the EU also encourages adversarial legalism. The EU is a highly fragmented regulatory state, with authority in many policy areas divided vertically between the EU and member state governments and horizontally at the EU level between the Council, the Parliament, the Commission and the ECJ. The EU has a powerful judiciary, but is otherwise a weak state with extremely limited implementation and enforcement capacity. Across a wide range of policy areas, these institutional factors generate strong political incentives to rely on adversarial legalism as a mode of governance.

The fragmentation of power between the Council, Parliament and Commission encourages the adoption of laws with strict, judicially enforceable goals, deadlines and transparent procedural requirements. The EU's limited implementation and enforcement capacity makes it tempting for policy-makers to effectively privatize governance by enlisting private parties and national courts to enforce EU policies. The European Parliament is perhaps the strongest backer of this approach, as it trusts neither the member state governments nor the Commission to implement and enforce EU law. The Commission too favors this approach, as it recognizes its limited ability to enforce EU law from the center. Even member state governments often favor this approach, essentially because they doubt one another's commitment to implementation and seek to force laggards to comply. The EU's institutional predisposition to adversarial legalism has only been intensified by the EU's response to the criticism that its policymaking processes suffer from a "democratic deficit": EU policymakers have responded by enhancing transparency, formalizing procedures for public participation and increasing "access to justice" for aggrieved parties.

Existing work on judicialization suffers from a massive "data deficit." While there is a widely held view that countries across Europe are experiencing a growth of all things "legal," there is very little aggregate, comparable longitudinal data on litigation rates, spending on judiciaries or other measures of judicialization. No single measure can capture the spread of adversarial legalism. Rather, scholars must as-

semble a number of aggregate indicators and a series of case studies that together provide a composite picture of the trend. I am involved in an ongoing research project designed to undertake such case studies and to collect aggregate measures of adversarial legalism in Europe. For the purposes of this essay, however, I can only highlight findings of existing studies.

Case studies of the transformation of legal style in particular policy areas provide considerable evidence of the spread of adversarial legalism in the EU. In policy areas as diverse as environmental protection, securities regulation, consumer protection, and anti-discrimination policy (Kelemen and Sibbitt 2004, Kelemen 2003, 2004, 2006a), competition policy (Hodges 2006b, Wils 2004) and contract law (Shapiro 1998) and administrative law (Shapiro 2001), scholars have demonstrated that the EU is encouraging a shift toward greater reliance on transparency, disclosure and strict public and private enforcement of regulatory norms in the courts. Space constraints prohibit any substantive discussion of such case studies, but I can briefly highlight a few recent developments that are likely to accelerate the shift toward adversarial legalism across a wide range of policy areas.

Returns on litigation - Historically, reliance on litigation as an instrument of governance in Europe was limited by the combination of the high costs of litigation and the limited potential benefits. Recent reforms and current reform debates suggest that costs are decreasing, while the potential "returns" on litigation are increasing. On the costs side of the equation, traditional financing arrangements and procedural rules in most European jurisdictions – including the absence of contingency fees and class actions and the presence of the loser pays rule – discouraged litigation. Today, we can observe movement on all these fronts. Contingency or "conditional" fee arrangements have been adopted in the UK and have been proposed in a number of other member states in the past few years. The steady development of the market for before-the-event and after-the-event legal expenses insurance increasingly provide liti-

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gants with protection against the financial risks created by “loser pays” rule. In recent years, England and Wales, Sweden, and the Netherlands have already introduced fully-fledged class actions. France, Germany, Italy, Ireland, Finland, Norway and Sweden, and the EU itself, are currently considering doing so (Hodges 2006a).

Turning to the other side of the equation, the potential benefits of litigation in Europe have been increasing. Damage awards in Europe are far lower than those in the US and will remain so, above all because judges (not juries) determine awards. Moreover, certain forms of damages, such as punitive damages, are not recognized in European jurisdictions. Nevertheless, it is clear that European law is creating pressure for an increase in both the amount and the range of damages recognized by national courts, and this is sure to increase incentives for litigation. A series of ECJ decisions has increased the level and range of damages and other remedies that litigants can claim under Community law (Kelemen 2003, 2006a).

Legal Services - The European legal services industry is growing rapidly (Euromonitor 2005a and 2005b) and transforming its forms of organization in ways that both reflect, and will further accelerate, the growth of adversarial legalism. The number of registered attorneys has increased dramatically in all EU member states over the last twenty years (Kelemen 2006a). In the corporate sector, large American and British firms have expanded across the continent, and Continental firms (sometimes in alliance with the Anglo-Americans) have organized themselves

into larger firms that can offer many of the “mega-lawyering techniques” familiar in the US (Kelemen and Sibbitt 2004). The growth and reorganization of the legal profession across Europe is strengthening the support structure for many forms of litigation.

The argument here is not that we should expect European legal styles to converge completely on an American model. As Kagan and others suggest, the existing institutional and cultural landscape of European legal systems will both channel and limit the spread of American practices, generating a form of adversarial legalism with European characteristics – what we might call adversarial legalism *à la européenne*. Many EU policy-makers are well aware that the EU’s approach to regulation in many policy areas may encourage litigation and are keen to prevent EU member states from experiencing the excesses of American legal style. On the one hand, they are creating new EU rights, removing barriers to access to justice and encouraging potential litigants to vindicate their rights, sometimes actively advertising these rights and even training potential litigants. On the other hand, they hope to avoid the high costs, uncertainty, adversarialism and “litigation culture” they associate with the US system. They are performing a difficult balancing act. European jurisdictions may never experience the most notorious excesses of the US legal systems, but they are not immune to the “American disease.”

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Questioning the “Americanization” of European Law

By Robert A. Kagan

The European Union and the competitive pressures unleashed by globalization, some scholars have suggested, are resulting in the “Americanization” of law in Western Europe, exemplified by (a) emulation of neoliberal American policies and laws and (b) adoption of America’s adversarial, litigation-encouraging modes of governance (Kelemen 2006a, Kelemen & Sib-

bett 2004, Garth & Dezalay 1995). This article analyzes the factors that push in that direction, but questions the likelihood of significant levels of *convergence* with the American “way of law,” particularly at the crucial level of European nation states.

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1. Distinctive Features of American Law

The “Americanization” of European law might be defined as the adoption by Western European countries of laws, legal practices, and legal frameworks that had been entrenched in the United States significantly earlier and that represent *significant departures* from long-standing European legal traditions. In terms of U.S.-European differences in substantive law, the most salient are, first, their more limited, less generous American legal rights to social welfare benefits, health care, and employee protections and benefits (Wilensky 2002, Kagan, 2001), and concomitantly, America’s less demanding tax laws (Steinmo 1993). Second, American statutes call for and courts impose *much more severe legal sanctions* on those who violate criminal laws (Whitman 2003, Kagan 2001: 65) and business regulations (Kagan 2001: 191-94), as well as much larger civil damage awards in tort cases (Sugarman 2006: 418, Sebok 2006: 392, Schwartz 1991).

Moreover, the United States has a distinctive “legal style.” American laws generally are more detailed, complicated, and prescriptive. American methods of litigating and adjudicating legal disputes are much more adversarial and costly. In American regulatory programs, legalistic (as opposed to cooperative) enforcement and judicial review of administrative decisions both are much more prevalent. American judges historically have been bolder in scrutinizing and ordering changes to governmental plans, institutional practices, and decisions. Interest groups in the United States, consequently, more often use courts as an alternative political forum for seeking policy goals (Bogart 2002: 14, Kagan 2001: Ch.1). This American “adversarial legalism” reflects deliberate government encouragement of private litigation and judicial action to help implement public policy. It is institutionalized through a diverse, politically selected judiciary, armed with significant law-making and remedial powers; a highly entrepreneurial legal profession (including public interest law firms) empowered by wide-ranging rights to pre-trial discovery and the right to bring remunerative, potentially devastating class actions; and a mode of legal education that stresses legal advocacy, creativity, and an instrumental

view of law (Kagan 2001: 55-57).

These distinctive features of American law are rooted in a political tradition that is pervaded by mistrust of concentrated power, both governmental and economic (Lipset 1996: 21, Roe 1991), and by a corresponding propensity to fragment both political and economic power and to constrain it by law and courts (Kagan 2001, Jacob et al. 1996). For related reasons, the United States has never had the kind of strong socialist or center-left political party that gave Western European governments incentives to enact strong legal protections for labor and social benefit programs. Consequently, American business-labor relations have been more decentralized and “privatized”; U.S. labor law does not mandate European-style nationwide rights (Rogers 1990, Kagan 1990); and American tax rates and revenues have generally been lower (Wilensky 2002).

Finally, in the last 40 years, political pressures for more active government have intensified American adversarial legalism (Kagan 2001: 35-37, Melnick 2004). Responding to these political demands required a more powerful, more activist central government – which conflicted with a political tradition of limited, decentralized government. Consequently, American judges and politicians substituted detailed legal rights and obligations, lawsuits, formal procedures, tough legal penalties, lawyers, and courts – the building blocks of adversarial legalism – for the powerful bureaucracies, corporatist bodies, central banks, and social insurance programs that have dominated the regulatory-welfare state in Western Europe.

2. Pressures for “Americanization” in European Legal Systems

The more European governments and economies come to resemble the American political economy, the more incentives they should experience to mimic American laws and legal practices (Kagan 1997). The EU and global competition have indeed been pushing the political economy of Western Europe in that direction, as evidenced by privatization of former government monopolies (OECD 2005: 14-15), more competitive, public modes of corporate

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finance and restructuring (Coffee 1991), and more open, diverse products/service markets. Consequently, in Europe, as in the US, informal member-state systems of regulation based on insider networks and trust have eroded, making EU and member-state regulatory systems somewhat more legalistic (Kelemen & Sibbett 2004: 109). European legal systems have seen more “American-style” legal techniques— more legalistic financial and public utility regulation (Moran 1991; Pitt & Hardison 1992; S. Vogel 1996); aggressive lawyering in commercial litigation and arbitration (Garth & Dezelay 1995; Kelemen & Sibbett 2004: 114-15); and detailed, defensively written contracts (Wiegand 1996: 139).

Moreover, as in the US, political authority in the EU is fragmented; the EU lacks its own local-level enforcement bureaucracy and court system. Hence, much like the US Congress and the US Supreme Court, the European Commission and the European Court of Justice have encouraged private claims in member-state courts for violations of EU Directives (Stone Sweet 2000: 161-65). EU directives (like American regulatory statutes) have become more prescriptive, encouraging a more adversarial and legalistic approach to enforcement (Kelemen and Sibbet 2004: 110).

3. Impediments to Legal Convergence: Why European Legal Systems Will Not Be “Americanized”

Yet the changes in political economy that have generated American legal distinctiveness, even if now operating in Europe, encounter there traditions and interests which are likely to impede and redirect movement toward Americanization of European law. One such impediment is *the tenacity of European national political and legal cultures* (Kagan 1997). Western European political elites and constituencies continue to emphasize the values of social solidarity embodied in the legal guarantees of the welfare state and employee security, rejecting the neoliberal “American model” and the harshness of American penal law (Pierson 2001, Levy 2006). The skepticism concerning governmental and legal authority that animates adversarial legalism in the US is antithetical to the ideals of bu-

reaucratic legalism that undergird most European lawyers’, judges’, and legal scholars’ assumptions about law, legal ordering, regulation, and adjudication (Damaska 1986, Chase 2005: 67, Greve 1989). Consequently, although European countries have experienced more *litigation*, they are not likely to adopt *methods* of litigation, adjudication, lawyering and politically appointed judiciaries characteristic of American adversarial legalism.

A second impediment is *the tenacity of the political structures of EU member states* – strong social democratic parties and respected national bureaucracies. In implementing EU directives, national political party leaders and top bureaucrats continue to prefer accustomed, predictable methods of policy-making, policy-implementation, and dispute resolution over the difficult-to-control, less-predictable methods of adversarial legalism.

Consequently, the following prominent features of American law almost surely will *not* be welcomed into the legal and regulatory systems of European countries.

1. The highly political nature and strong remedial powers of American courts.
2. The adversarial legalism that pervades the American regulatory process.
3. The hyperactive, costly, inefficient and threatening American tort law system, shaped by the unpredictable shadow of trial by jury.
4. The significantly more limited rights to social provision and worker protection provided by the more “privatized” American system.
5. The less demanding American tax laws.
6. The punitiveness and adversarial legalism of the American criminal justice system.

4. Conclusion

In the legal systems of Western European countries, litigation and judicial decisions have become more prominent features of governance, regulation, policy development, and dispute resolution. Global economic competition, fiscal pressures, and the challenges of coordinating law and policy throughout the EU have encouraged those trends. Hence law and legal practice in Europe may well come closer to

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resembling American styles of contracting, corporate financial regulation, and controls on private pension funds – forms that are well-adapted to a highly competitive, privatized economy. Yet due to national traditions of “bureaucratic legalism” and parliamentary government, increases in law, litigation and judicialization in Western Europe do not imply comparable increases in American-style adversarial legalism. In substantive law, any drift toward American-style neoliberal labor, social welfare

law, and tax law traditions are likely to be limited by the broad political interests entrenched by years of solid welfare state and worker-protective policies. Hence, the six distinctive features of American summarized above, and many others, are likely to remain unattractive to legal policymakers in European countries.

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Courts and the Americanization of Social Rights in Europe?

By Lisa Conant

Courts contribute to the construction of citizenship by patrolling who enjoys rights to equal participation in a community. In this article I argue that member states of the European Union (EU) and Council of Europe (CE) adopted legal texts that develop a *transnational civil citizenship* based on economic and civil rights. Second, I argue that the European Court of Justice (ECJ) and European Court of Human Rights (ECHR) creatively interpreted EU law and the Convention for the Protection of Human Rights and Fundamental Freedoms (hereafter the Convention) to expand entitlements to social rights, helping to forge a *transnational social citizenship* that provides social protection to foreign residents and national citizens alike. This judicial activism appears reminiscent of the Americanization of European politics that Dan Kelemen identifies (2006b), but the European Courts’ social-rights case law is also rooted in commitments to solidarity that Robert Kagan argues are uniquely European (2006b). Official US rhetoric and policy in the aftermath of the 1996 welfare reforms is far removed from the ECHR’s observation that “in the modern, democratic State, many individuals are, for all or part of their lives, completely dependent for survival on social security and welfare benefits. Many domestic legal systems recognize that such individuals require a degree of certainty and security, and provide for benefits to be paid... as of right” (ECHR 2005a). Because European rights originate in commitments to *national* welfare and rely on the operation of *domestic* programs, however, judicial efforts to ex-

tend rights transnationally remain contested and vulnerable to retrenchment. I conclude by observing that contemporary reforms increasingly link social rights to economic rights, transforming social citizenship into a civil citizenship that is closer to the US model of minimal social protection.

Member state governments of the EU and CE created a transnational civil citizenship by expanding economic and civil rights for the nationals of EU member states and a few other states with EU association or cooperation accords, and for all individuals within the territory of the CE. EU members also agreed to extensive entitlements related to social insurance (e.g. unemployment and pension benefits) and social investment (e.g. child benefits and access to education) for migrants who participate in the market and their dependent families, thereby creating social rights that are closely linked to economic activity and traditional family relationships. By contrast, social assistance that is based more exclusively on need is either omitted from European texts, explicitly excluded, or included in formally non-justiciable texts. With the exception of the right to education under Article 2 of Protocol 1, the Convention’s provisions require considerable creativity to generate any social rights (Conant 2006a). These distinctions that “legislators” have drawn between (1) social insurance and investment and (2) social assistance reflect a limited form of European solidarity.

Meanwhile, European judges have ac-

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tively enforced social-rights provisions adopted in European treaties, legislation, and conventions, and they have interpreted EU law and the Convention to expand entitlements to social rights far beyond the intentions of national governments (Conant 2006b). Most notably, individuals who contest their exclusion from poverty relief have found a generous reception from European judges, who have restricted governments' ability to limit social assistance to nationals. Providing an increasingly similar level of social protection to foreign residents and citizens alike has not been popular with states, who have argued that they can legitimately discriminate against foreign claimants because the state "has special responsibility for its own nationals and must take care of them and provide for their essential needs" (ECHR 1996) and only assumes obligations to promote the family life (through distribution of child benefits) of foreigners who possess permanent rights of residence (ECHR 2005b).

The ECJ was chipping away at the nationality discrimination that EU "citizens" faced decades before EU "citizenship" existed, broadening entitlements to social benefits by narrowly defining social-assistance exclusions and classifying some forms of social assistance as "social advantages" that EU migrant workers may access (Conant 2006b). Yet the ECJ still tends to link entitlement to social assistance to periods of employment or study and vocational training (Conant 2006a) and bases the entitlement of any third-country residents on formal accords between EU member states and resident foreigners' home countries (Conant 2002, 2004).

By contrast, the ECHR has more fundamentally challenged state prerogatives by rejecting distinctions between social insurance and assistance and eliminating the possibility of nationality discrimination for all legally resident foreigners in CE states. The ECHR grounds its decisions that resident foreigners, regardless of nationality, can be entitled to non-contributory "welfare" benefits on the prohibition against national-origin discrimination under Article 14 of the Convention along with individuals' rights to "enjoy their possessions" under Article 1 of Protocol 1. The ECHR's interpretation of the Convention's property rights provision has not been

a hit. France argued that a right to property could not include non-contributory benefits that take the form of assistance (ECHR 2003). The UK argued that proprietary claims to state benefits should be limited to those contributory benefits for which "the individual had, in effect, paid for the benefits" (ECHR 2005a). The UK government insisted that, "the Convention and Protocol No. 1 were concerned with civil and political, rather than social and economic rights" (ECHR 2005a). The ECHR based its rejection of these arguments on a British judge's conclusion that the variety of funding methods, interlocking nature of welfare benefits, and contributions that individual taxpayers make to benefits paid out of general taxation render distinctions between contributory and non-contributory social benefits increasingly artificial (ECHR 2005a).

This dramatic expansion in entitlement to social assistance via European Courts, however, is limited by the subsidiary nature of all European social rights. Neither EU law nor the Convention creates rights to *acquire* property or *receive* social benefits, and therefore states remain free to "level down" and link protection to periods of employment, as long as they do this to all individuals. Welfare reforms in Europe suggest that states increasingly connect benefits to labor-market participation or vocational training, creating a system that Joel Handler (2004) compares to "workfare" in the US. While European programs do not impose strict deadlines or life-time limits on benefits (Levy 2005), growing inducements to work and the proliferation of occupational and supplemental health and pension plans begins to link social protection to economic performance in a manner similar to US social protection, which varies substantially according to employment (Hacker 2002). Private schemes are still marginal to much more comprehensive public schemes in Europe, but social policy analysts link privatization and differentiation of social protection to the gradual erosion of support for more universal social protection and an increase in individual risk (Jordan 1996, Rhodes 1996, Hacker 2004). As a result, while European Courts prohibit the unequal treatment of nationals and foreigners, states and employers may construct increas-

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ingly varied forms of social protection based on differences in economic activity. This trend threatens "social citizenship" in that social protection is no longer a right of citizenship as it has been in postwar Western Europe, to a sig-

nificantly greater degree than it ever was in the US.

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APSA/EPS News and Announcements

APSA-European Politics Syllabus Bank Revised and On-Line!

Since 2001, the APSA Organized Interest Section on European Politics and Society has maintained a bank of syllabi on various aspects of European politics, to serve as a resource to members of the section and to the larger community of scholars and teachers in the field.

Recent decades have witnessed dramatic changes in European politics, and these changes have been (or perhaps should be) reflected in the ways that European politics and society are taught in the classroom. Following a general call for syllabi from members of the Section, the syllabus bank has been comprehensively updated, effective January 2007, with new or updated syllabi on a range of topics. The syllabi listed on the website have been compiled by

a Section-appointed committee consisting of Mark Pollack (Temple University, Chair), Anna Grzymala-Busse (University of Michigan) and Leonard Ray (Louisiana State University), who have selected syllabi representing a range of approaches to the teaching of various topics and countries in European politics. To see the updated syllabus bank, visit the Section website at: <http://www.apsanet.org/about/sections/syllabi.cfm>.

Submission of additional syllabi is welcomed, particularly in areas, such as graduate syllabi and those on Central and Eastern Europe that are underrepresented in the current sample. Please send syllabi in pdf format to Mark Pollack at mark.pollack@temple.edu. New syllabi will be selected periodically for posting by the committee based on issue-area, approach, and quality.

Call for Proposals for New Team to Edit and Produce the APSA/EPS Newsletter

The European Politics and Society Section of APSA seeks a new editorial team to take charge of the editing, production, and mailing of the Section's Newsletter, for a three-year term beginning with the Fall/Winter 2008 issue.

Responsibilities of the editorial team include identifying themes and contacting potential contributors; selecting and editing submissions; soliciting news and announcements for publication in the Newsletter; formatting, printing and mailing hard copies of the Newsletter to all Section members; and provision of a pdf version for posting by the Section webmaster. The Section will reimburse the editors for the costs of printing and mailing the newsletter; other costs, including faculty or assistant work-time, computer equipment, etc., are the responsibility of the host institution.

Proposals to edit and host the Newsletter are welcome, and should be sent in pdf format to Section Chair Chris Anderson, Department of Government, Cornell University (cja22@cornell.edu).

The new editorial team will be selected by collective decision of the Section's Steering Committee. Proposals should include the following elements:

- The names, affiliation and c.v.'s of the editorial team members;
- Statement of the editorial team's plans for future issues of the newsletter, including priority themes, topics, special features, etc.
- Statement of institutional support from the home institution, including the cost of an editorial assistant (as appropriate);
- Estimates of printing and mailing costs for a mailing of 600, 24-page newsletters.

Proposals must be received by 31 March 2007, and applicants will be informed of the final decision by 31 May 2007. Inquiries about the process may be sent to Chris Anderson (cja22@cornell.edu) or Mark A. Pollack (mark.pollack@temple.edu), of the current Temple University editorial team.

Call for Nominations for APSA-EPS Prizes

The **Best Book Award** given for the best book published on European Politics and Society during 2006. Books to be considered for this award must be nominated by the publisher by **March 1, 2007** (we cannot accept self-nominations). Please send a letter of nomination and one copy of the book to each committee member.

Committee Members

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Best Paper Award given for the best paper on European Politics and Society presented at the 2006 APSA meeting. Nominations (a brief note of nomination as well as a copy of the paper itself) should be sent to each of the three committee members, either electronically or in hard copy, and must be received by **March 1, 2007**.

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Ernst B. Haas Best Dissertation Award

The Section's inaugural Prize for the Ernst B. Haas Best Dissertation on European Politics

and Society filed during 2006. To be considered for this award, a dissertation must be nominated by the Chair of the department in which it was defended (again, we cannot accept self-nominations). Letters of nomination and a copy of the dissertation must be sent to each committee member and must be postmarked by **March 1, 2007**.

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European Studies News and Notes

EUSA Tenth Biennial International Conference Montreal, Canada * May 17-May 19, 2007

The European Union Studies Association (EUSA) of the United States will hold its tenth biennial meeting of European Union specialists at the Le Centre Sheraton, located in the city center of Montreal. The 2007 will be the largest yet, with over 100 panels covering the wide range of EU studies topics. For more information, including a draft conference program, please visit the EUSA website at www.eustudies.org.

Britain after Blair: The Legacy and the Future - Conference Sponsored by the British Politics Group Wednesday, August 29, 2007 University of Chicago Business School

Much like Margaret Thatcher before him, Tony Blair has dominated the British political scene for nearly a decade. What has been the legacy of the Blair government, both in terms of politics and public policy? What are the likely directions for the future, either under the leadership of Gordon Brown or beyond? The British Politics Group is organizing a special one-day conference to explore these issues.

The conference is being held on the Wednesday prior to APSA and convened at the Gleacher Center of the University of Chicago Business School, a short walk from both of the main APSA conference hotels. Proposals will be reviewed starting on January 15, 2007 and

acceptances will be offered on a rolling basis through June. Further information on the conference, including submission guidelines and deadlines, can be found on the conference website at <http://www.rose-hulman.edu/~casey1/BAB.htm>

Europe and the Management of Globalization A Workshop at Princeton University February 23, 2007

The workshop "Europe and the Management of Globalization", organized by Sophie Meunier and Wade Jacoby, will be held at Princeton University on February 23, 2006. It is co-sponsored by the Princeton Center on Globalization and Governance, Brigham Young University, and the Council of Europeanists' Globalization Research Group. For information about the workshop, contact Sophie Meunier at smeunier@princeton.edu.

CONNEX Thematic Conference on Political Representation European University Institute, Florence May 25-26 2007

The Network of Excellence CONNEX ("Connecting Excellence on European Governance") is dedicated to the analysis of efficient and democratic multilevel governance in Europe and will have a 4 years duration (July 2004 - June 2008).

Within the framework of the CONNEX

Network, the Research Group on Representation is organizing a two-day thematic conference on political representation, to be held at the European University Institute on 25-26 May 2007. The conference will be organized around 6 thematic papers, each followed by a well prepared comment of one or two discussants. We invite members of Connex and other interested scholars to propose themselves as discussants for one of the themes. For more information on the various themes and application instructions, see the call for papers at the CONNEX website: <http://www.connex-network.org>.

**CONNEX Thematic Conference on
Accountability
European University Institute, Florence
June 29-30, 2007**

The CONNEX Research Group on Accountability is organizing a two-day thematic conference on accountability, to be held at the European University Institute on 29-30 June 2007. The conference will be organized around six thematic papers, each followed by two shorter presentations addressing more concrete research problems.

We invite members of Connex and other interested scholars to propose possible shorter presentations that can be linked to one of these themes and which deal with a concrete research problem or case study. For more information on the various themes and application instructions, see the call for papers at the CONNEX website: <http://www.connex-network.org>.

***Imagining Europe: Turning Points in the
Evolution of a Continent
An International Symposium
Vanderbilt University, Nashville, TN.
November 1-4, 2007***

The symposium will use the 50th anniversary to reflect critically on the sense of a looming crisis in achieving full integration. Pre-1957 events will be consulted as providing a possible guide to future action. Do past turning points — whether successes or failures — offer insight into how best to utilize opportunities to promote economic, political, and cultural flour-

ishing on the European continent?

Approximately thirty Europeanists from several disciplines will be invited to revisit decisive historical moments and to ask what marks they left on the cultural, economic, and political footprint of Europe. We welcome papers with a focus on Germany within its European contexts. A two-page proposal for a 30-minute presentation should be sent (as an email attachment, if possible) by May 1, 2007, to the symposium organizers at: Max Kade Center for European & German Studies, Vanderbilt University, 2301 Vanderbilt Place, VU Station B #351567, Nashville, TN 37235-1567 USA. mkcegs@vanderbilt.edu. Contact person: John A. McCarthy, Director. For more information, please see <http://sitemason.vanderbilt.edu/euro>.

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Newsletter of the European Politics & Society Section of the American Political Science Association

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