



October 29, 2010

Colleagues:

Let's use the paper on [minimalism](#) as a stepping-stone to discussion. It contrasts two strategies for reconstructing the activist state: minimalism, which assumes that complex organizations are inherently limited in their capacities, and therefore that rule-making and service provision must be by market mimicking means (cap and trade regulation, service allocation by vouchers); and experimentalism, which claims that a new class of institutions, reducible to neither markets nor hierarchies, can and does increasingly in fact respond to the demands of rule making and service provision under conditions of persistent uncertainty. Since much of the presentation of minimalism and the criticism of it will be familiar, you might want to skim the first part of the paper, and linger only a bit more on the presentation of the experimentalist alternative in part II, beginning on p. 29. Perhaps you will also want to devote some of the time thus saved to consideration of the supplemental materials closest to your interests. These materials mainly extend the discussion of the transformation of law under heightened uncertainty to private exchanges (the papers on [contracting for innovation](#) and [braiding](#)) and to legislation, regulation and constitutional adjudication in the EU (the papers on learning from diversity and [constitutionalizing an overlapping consensus](#)). The paper on the [Finnish School system](#) shows how experimentalist institutions can arise from the evolution of traditional professions, rather than the reconstruction of failed bureaucracies (as in the US, in [child welfare](#), for example) or because of the unavailability of familiar state forms (as in the EU). Given this variety of topics my hope is that we will find a way to engage on terrain you know.

Very much looking forward to the discussion.

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