

# **AALS CONFERENCE ON BUSINESS ASSOCIATIONS**

## ***Trends in Business Associations Scholarship: Comparative Corporate Governance***

**Donald Clarke George Washington  
University Law School June 9, 2009**

### **I. What is comparative corporate governance (CCG)?**

#### **A. Conceptions of corporate governance (CG) in general**

- 1. Narrow: agency problems**
- 2. Broad: all aspects of corporate behavior**
- 3. Relationship to shareholder-primacy versus stakeholder theories**

#### **B. Application to comparative corporate governance**

- 1. Single-country studies**
- 2. Multiple-country studies**
- 3. "U.S. and" studies**

### **II. History of CCG studies**

#### **A. Micro approach: differences in formal rules**

#### **B. Focus on ownership and agency costs**

#### **C. Empirical research**

#### **D. Focus on CG as part of broader financial system**

#### **E. CG as factor in national economic success (esp. Germany and Japan)**

### **III. Methodology of CCG**

#### **A. Functionalism and its problems**

#### **B. Cross-sectional studies versus longitudinal studies**

#### **C. Measuring CG**

#### **D. Empirical studies using standardized data**

#### **E. Relating methodology to purpose**

### **IV. Why do CCG?**

#### **A. Tasks of comparative law generally**

#### **B. Tasks of CCG**

**Compare features of different national CG systems**

**Compare advantages and disadvantages (from analyst's perspective) of national systems**

Search for optimal forms, best practices

Explain variations in CG across countries

Explore policy implications of variations (in analyst's country and in other countries)

V. Questions for CCG

A. Do CG arrangements affect investor returns? Stakeholder returns? National economic performance?

B. If so, are they amenable to change?

C. If so, how should they be changed?

D. Should change come from legislation or from market forces?

E. What is value of CCG if it has no strong policy implications?

F. If looking for better CG arrangements, why confine study to what's actually done in other countries?

G. Are optimal forms/best practices chimerical?

VI. Lessons from CCG

A. Response from private parties to differing mandatory CG arrangements

B. Explanations for different ownership patterns

1 Law matters

2 History and politics matter

3 Culture matters

C. Convergence or continuing diversity?

1 Is convergence desirable?

2 Is convergence happening?

3 What are forces for and against convergence?

VII. Problems with CCG

A. Too focused on issues of ownership and control?

B. Too focused on corporate law, neglecting institutional environment?

C. Too focused on large public firm?

D. Too focused on a few developed countries?

VIII. Agenda for the future