

TWO CONTRASTING PERSPECTIVES ON INSTITUTIONAL TRANSPLANTATION

1. APPROACHING INSTITUTIONAL TRANSPLANTATION

It is tempting to look across the state border and claim that promising policy solutions developed elsewhere should be introduced on domestic soil. Policy transfer is not a new phenomenon, though. Already in the 1870s and 1880s during the Meiji restoration in Japan, conscious efforts were undertaken to imitate and emulate organisational and institutional exemplars in existence in Western powers. This emulation, it was hoped, would help face the consequences of industrialisation and turn Japan into a modern state (Westney, 1987).

More than one century later, globalisation, Europeanisation and intensified international communication due to improved infrastructure facilities lead to a similar wave of enthusiasm for international benchmarking and policy transfer around the globe. The usual expectation is that similar positive results as the ones found in other countries can be achieved at home. Policy makers, legal practitioners and planners regularly hear media stories, listen to informal talks during conferences and business visits or check the internet and are intrigued by levels of effectiveness, efficiency or innovativeness realised elsewhere and propose to copy these models. Yet which models are worth following? Which are suitable for the domestic situation?

Potential transplanters may have difficulties in assessing the suitability of a model. Foreign success stories may be overstated by the representatives of the donor country. Indeed, for temporary visitors, the display of showcases may be hard to disentangle from the more prosaic reality of day-to-day practice in the donor country. This could be of little relevance to the politicians in the country of adoption, as they may thankfully buy an idea or ideology, which is in line with their political agenda and that serves as ammunition in their political conflict, regardless of how the actual policy worked out elsewhere. States run by liberal governments in the United States are by their very nature inclined to draw lessons from other states with liberal reputations (Massachusetts and Wisconsin, for instance), whereas conservative governments would rather turn to policy models in vogue in Southern states (Robertson, 1991). In other cases, the donor country and host country have different legal traditions and, consequently, adoption of alien legal procedures and measures could be ineffective or even counterproductive. This is due to the fact that the measures fall into a different context, where they hinder the functioning of domestic institutions and their own functioning may be hampered. Donor and host

country could also possibly embrace diverging administrative values and norms. Therefore, newly introduced policies copied or adapted from elsewhere have unforeseen consequences. Is it possible to predict in which situations institutional borrowing will be beneficial?

Whether an institutional transplantation is successful or not, is difficult to assess as it often depends of the perspectives taken. Transplantations, as any other changes, make winners and losers. Sometimes, success is measured as the degree of resemblance achieved between the model institution and its copy. However, it is a rather simplistic way to look at such a transfer, which is a means to achieve certain goals and not a goal in itself. The purpose of institutional transplantation cannot possibly be the cloning of the original institutions in another context for its own sake. While success is difficult to assess, practitioners need to comprehend the potential and the limitations of institutional transplantations. Practitioners need guidelines to decide whether or not to use this strategy. In addition, observers and theorists want to understand why and how transplanters borrow institutions. Why are some more successful than others? Are some countries more prone to borrowing than others? Are some countries more often models than others?

This chapter presents the theoretical state of the art on policy borrowing, variably labelled 'imitation, emulation and innovation' (Westney, 1987), 'lesson drawing' (Rose, 1991, 1993; Robertson, 1991), 'legal transplantation' (Watson, 1993), 'legal mixing' (Örücü, Attwooll, & Coyle, 1996), 'policy band wagoning' (Ikenberry, 1990), 'policy learning' (Bennett & Howlett, 1992), 'policy transfer' (Dolowitz, 1999; Dolowitz & Marsh, 1996, 2000; Peters, 1997; Evans & Davies, 1999; Stone, 1999, 2000; Wolman, 1992), 'institutional transfer' (Jacoby, 2000), and 'institutional transplantation' (De Jong, 1999a). Though there are clear differences of nuance and connotation to each of these denominations, they basically describe the same phenomenon. This book focuses on institutional transplantations between states or state agencies, but similar processes are highly relevant to the private sector. For example, Perucci (1994) has recorded the phenomenon of 'toyotism', Japanese automobile factories settling in the US Mid West and introducing their *kaizen*, systematic team work based quality control, and just-in-time management traditions in the American heartland.

Below, we contrast two key perspectives on institutional transplantations, connected to two different conceptions of institutional change. Section 2 introduces key concepts such as formal and informal institutions, institutional complex, institutional transplantation, institutional design and institutional evolution, on which the rest of the theoretical framework hinges. Section 3 presents institutional transplantation as design, or 'the pulling in argument', meaning that it is the players in the policy network who frame and reframe the transplant following their own preferences and the interplay of their strategic power game. Transplants are 'pulled in' by actors supportive of ideas and ideologies associated with the transplant as it operated in its country of origin and who attempt to redesign the institutional web around them. In section 4, we provide a more systemic view of institutional transplantation. Here, institutional structures are highlighted as ensembles of rules that have evolved historically and reveal certain legal, political and cultural traditions. As such, it is not easy for policy actors to tamper with them. Transplants

derived from other traditions may work, but creating *mixité* should be done with caution. We call this line of thinking on institutional transplantation the ‘goodness of fit’ argument. A common way of assessing goodness of fit is to posit the existence of families of nations. Individual nations sharing institutional features are then both held to be members of the same family who could successfully transplant from each other. Finally, in section 5 the most important lessons from chapter for the rest of the book will be drawn.

2. INSTITUTIONAL TRANSPLANTATION: DEFINITIONS AND CONCEPTS

2.1 Institutional transplantation and related concepts

As mentioned earlier institutional transplantation is one of the many concepts in use to label the transfer of policies from one setting to the other. Although these concepts are rather similar, it is meaningful to underline that they cover only partly overlapping categories. A general term to describe has been proposed by Ward (1999) with the label ‘diffusional episodes’. Discussing the diffusion of planning concepts, he presents a typology featuring six types of diffusional episodes, ‘based essentially in the power relationships between the ‘importing’ and the ‘exporting’ nations’:

- authoritarian imposition,
- contested imposition,
- negotiated imposition,
- undiluted borrowing,
- selective borrowing, and
- synthetic innovation (Ward, 1999, p. 58).

Although the notions of transfer and transplantation encompass both coercion and diffusion, most recent literature on ‘legal’ or ‘institutional transplantation’ and ‘policy transfer’ focuses on voluntary borrowings, neglecting cases of imposition. Moreover ‘lesson drawing’ and ‘policy learning’ concern a broader spectrum of practices because they include negative lessons in which learning results in the non-adoption of existing policies (in other words learning from failures and mistakes).

2.2 Institutions as transplants

Transplants can be institutions, policies, programmes, procedures, ideologies, justifications, attitudes and ideas. Using ‘institution’ as a container concept for all these possible transplants is convenient but necessitates some precisions. Much has been written on describing and defining institutions in fields as diverse as law, institutional economics, political science, sociology, anthropology and history. In order to avoid having to go too deep into this extensive theoretical debate, this discussion will be limited to what can be seen as a common denominator in most

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