Institutions are often invoked to explain poor performance. 'Land tenure' is blamed for low agricultural investment, or 'bureaucracy' for poor delivery of services. Institutional reform or strengthening is regularly proposed as a remedy. More generally, the World Bank, which dominates thinking about development, tells us that 'institutions matter'. Good governance projects often involve the emulation of institutions devised in other countries, and there are concerns about whether they will fit in their new contexts.

This paper reports on the results of some research on institutional transfer in the South Pacific, and draws a few lessons for aid. The research compared attempts to transfer a system of registering titles to land (in Melanesia, Larmour 2002c); Westminster-style constitutions (Larmour 2002b); representative democracy; public sector reform and corruption prevention (throughout the South Pacific). It used a framework devised by English political scientists Dolowitz and Marsh (2000) to guide the study of what they called 'policy transfer':

The process by which knowledge about policies, administrative arrangements, institutions and ideas in one political system (past or present) is used in the development of policies, administrative arrangements, institutions and ideas in another political system (Dolowitz and Marsh 2000:5).

They asked a series of simple questions: who was involved in the transfer, how did it take place, where was it from, and so on. They were particularly concerned about whether it was voluntary or coerced.

The process of policy transfer is not new to the South Pacific. Sione Latukefu (1975) describes how, in the mid nineteenth century, the Sydney Morning Herald anticipated current concerns with 'good governance' by criticising the regime in Tonga as 'totally inefficient'. The King of Tonga went on a study tour of New South Wales in 1853. He was shocked by the signs of poverty he saw, but impressed by the leasehold system of land tenure, which he introduced to Tonga. He went on to adopt a constitution modelled on Hawaii’s, which in turn borrowed elements from Britain. The King was advised by missionaries. Now consultants and Non Government Organisations play a similar role in promoting ‘international best practice’.

To transfer means 'to convey or take from one place, person etc to another' (Shorter Oxford English Dictionary). The phrase ‘institutional transfer’ was used by David Apter, in his study of politics in what was then called the Gold Coast, now Ghana, in the 1950s (Apter 1963). He asked if the institutions of parliamentary democracy modelled on Britain were suitable for African circumstances. Similar questions were asked before independence in Solomon Islands, where a government report wondered
if 'political progress, following the Westminster model, is suitable or desirable' (1968, quoted in Saemala 1983: 3).

The argument against transfer was made most influentially by the German legal theorist, Von Savigny, as part of a more general Romantic reaction against the universal claims of the Enlightenment. He saw the law, like language, embedded in a distinctive *Volksgeist* or ‘spirit of the people’, and therefore hard to transfer. Yet countries are not different in every respect. They often copy from each other, and look for examples of 'best practice' abroad. Nineteenth century Japan modelled its police force on France and its postal system on Britain (Westney, 1987: 13). In turn, the Japanese system of *koban* – police boxes in urban areas – has been copied by American cities. Ombudsmen have proliferated from their origins in Scandinavia, and Independent Commissions against Corruption from Hong Kong. Privatisation was promoted by the British accounting, advertising and stockbroking firms who had done well out of its application to Britain in the 1980s. In the 1990s borrowers looked to New Zealand for examples of 'New Public Management', based on market principles.

Institutions are 'stable, valued and recurring' (Goodin 1996). To talk about 'transferring' them may be to beg the question. Often the institution is the intended result of the transfer of something more aspirational (like an idea, policy or law), or material (like a grant) or human (like a consultant). In this paper our focus is on the process of transfer rather than the results. First we will look at what some ideas about institutions can tell us about the process. Then we will look at the research on attempts to transfer institutions of good governance. Finally we shall draw some lessons for aid donors, using the Public Service language of 'risk management'.

**Institutional theory**

A common metaphor is that institutions are the 'rules of the game', in which players compete for advantage (eg North 1990). Theories differ in what is regarded as fixed and given in this relationship, and what needs explaining. Actors goals and preferences can be treated as given (‘exogenous’ in economists' language). Or they can be treated as in need of explanation. Actors strategies can be seen as the product of calculation, or availability or social acceptability. The rules can be seen as something fixed and given, or as themselves products of human action, and subject to being ignored, or reaffirmed, or revised or revolved against. So institutional approaches are not alternative to rational, individualistic favoured by most economists (and some political scientists) but include them. A sociological dictionary, for example, defines an institutions as

an enduring set of ideas about how to accomplish goals generally recognised as important in a society (Blackwell Dictionary of Sociology (2nd ed) 2000.

It includes as examples the family and the state. The reference to 'goals' points to rational activity, while the phrase 'generally recognised as important' points to their social construction, and the possibility that there may be differences between societies, and over time, in what is considered important.
Several issues in the theory of institutions that seem particular relevant to understanding transfer:

First, there are the functions of institutions. They provide constraints and opportunities for rational, instrumental action. They also define what is more broadly right or wrong. They also help make sense of events and give them meaning (Scott 1995). Thus, for example, ‘the market’ can refer to an actual group of people buying and selling, but also to an ideal by which their activities can be understood and evaluated. Watching the buying and selling, we can say cognitively ‘a market is emerging’, and we can evaluate government policy, like the World Bank does, according to how ‘market friendly’ it is. The evaluative and cognitive and aspects of institutions - appealing to hearts and minds - may transfer more or less easily than the more pragmatic and instrumental ones.

Second is the distinction made between formal and informal institutions. The transfer of formal institutions may not work without the transfer of the informal expectations and assumptions upon which they depend. Joseph Siglitz (2000), for example, argues for the important of tacit knowledge picked up in study tours, secondments and by 'hands on' experience.

Third are the similarities between institutions. Why do some institutional forms proliferate at the expense of others? There is a ‘surprising isomorphism’ in the organisation of schools and hospitals, whatever the political and economic system, or level of economic development (Strang and Meyer 1993).

Fourth, is the role and future of a particular institution, the state. The state become the dominant political form throughout the world, but its time may be passing. Until recently, questioning the need for states still seems faintly impertinent, or irresponsible. Yet the anthropologist Pierre Clastres (1971) warned us against the belief that people living in stateless societies were necessarily 'missing something'. Public Choice theory, that became influential on public administration thinking in the 1980s, started to formulate impertinent questions. Arguments from first principles showed states might 'fail', just as markets did. They are vulnerable to capture by well-connected interest groups. They may embody no higher purpose than the self-interest of the bureaucrats and politicians who staffed them. By the 1990s there was a widespread lack of conviction in the state as an agent for development, in favour of markets and NGOs.

Transfers in the South Pacific

I have been comparing the transfer of five kinds of institution. The first is title to land in Melanesia (PNG, Solomon Islands and Vanuatu). The registration of titles involves the extension of land law out from colonial capitals, and settler plantations, onto land owned according to custom and tradition. It is often justified economically in terms of security of tenure. It also demonstrates a drive to universalise, standardise and bring life
under bureaucratic control that the political scientist James Scott (1990) characterised as 'seeing like a state'.

The second is the Westminster constitution, a law which sets out the functions of different parts of the state, and prescribes the relationships between them. In the liberal tradition transferred to the South Pacific the constitution also claims to set limits to the exercise of state power in human rights provisions, or in the prohibition of compulsory acquisition of land.

The third is the idea of representative democracy, and the mechanism of elections, by which modern states claim legitimacy. It cuts across indigenous forms of political organisation, by chiefs or 'big men', though such leaders may also draw on their traditional authority to win elections.

The fourth is 'public sector reform', which during the 1990s came to mean downsizing and the privatisation of state owned enterprises. It was sometimes driven by the urgent necessity to restore public finances by cutting wage bills and realising assets.

Fifth, are anti corruption institutions, like Ombudsman Commissions or Independent Commissions Against Corruption. They reflect suspicions that leaders will favour their own private or political interests above the interests of the country, people or nation as a whole. Some of this suspicion draws on liberal suspicions of rent seeking. Some draws on religious or other moral traditions about how leaders should behave.

The protection of private property rights, the rule of law, and the suspicion of state action embodied in public sector reform and anti-corruption efforts are all part of a more general package of liberal forms of government. They stand against, on the one hand, argument for development through public ownership, and on the other, for government by custom and chiefs. Each of them also involves international organisations, as well as transfers from country to country. The World Bank is involved in promoting land titling, public sector reform and anti corruption measures. The Commonwealth provides a network of support for officials and politicians using Westminster constitutions. The Group of 7 rich countries sets up the Financial Action Task Force and housed it in the offices of the OECD.

Results

The results of a total of about 40 episodes of transfer are summarised in Table 1, which distinguishes transfer from the longer run survival of the institution. It shows most transfers succeeding, eventually, but fewer surviving in place. Customary land registration failed to transfer or (in Solomon Islands) failed to survive. Constitutions proved more resilient, with the exceptions of Fiji and Solomon Islands. The institutions of representative democracy however seem well established at national level, and were extended through domestic decisions, without external pressure, in Samoa. A pro democracy movement has also survived in Tonga. Democracy at local level continues to be contested by traditional leaders. Public sector reform partly
succeeded – downsizing took place, but privatisation programs struggled to survive. The Forum's Action Plan was patchily implemented. The fate of anti corruption efforts is less clear. Transfers of Ombudsman Commissions, enforcing leadership codes, took place in PNG at independence, and eventually in Solomon Islands and Vanuatu, where the Commission provoked strong resistance from Parliament. Chapters of the anti-corruption NGO Transparency International have also been established in Melanesia, but the earliest – in PNG – has had difficulty making an impression. All draw on external support.

Table 1
Transfer and Survival

<table>
<thead>
<tr>
<th></th>
<th>transfer</th>
<th>survival</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customary land registration</td>
<td>No, except Solomon Islands</td>
<td>No, abandoned in Solomon Islands</td>
</tr>
<tr>
<td>(Melanesia only)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Westminster constitutions</td>
<td>Yes</td>
<td>Yes, except for</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Fiji 1987-1990</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Solomon Islands since 2000</td>
</tr>
<tr>
<td>Representative democracy</td>
<td>Yes, except Tonga and limited</td>
<td>Yes, except Tonga</td>
</tr>
<tr>
<td></td>
<td>suffrage in Samoa</td>
<td>- universal suffrage in Samoa</td>
</tr>
<tr>
<td>Public sector reform</td>
<td>Yes, involuntary downsizing</td>
<td>No, privatisation minimal</td>
</tr>
<tr>
<td></td>
<td>Limited compliance with 'peer</td>
<td></td>
</tr>
<tr>
<td></td>
<td>reviewed' Forum Action Plan</td>
<td></td>
</tr>
<tr>
<td>Anti corruption</td>
<td>Yes Ombudsmen in PNG, Solomon</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Islands - eventually from PNG to</td>
<td>- setbacks in Vanuatu</td>
</tr>
<tr>
<td></td>
<td>Vanuatu</td>
<td>- conciliatory role in Solomons</td>
</tr>
<tr>
<td></td>
<td>Transparency International(TI)</td>
<td>TI (PNG) initiatives, but</td>
</tr>
<tr>
<td></td>
<td>established in PNG, SI, Vanuatu, Fiji</td>
<td>little success so far</td>
</tr>
<tr>
<td></td>
<td>Cook Islands Nauru and Niue</td>
<td>not yet clear</td>
</tr>
<tr>
<td></td>
<td>'made progress' on FATF, but</td>
<td></td>
</tr>
<tr>
<td>Nauru blacklisted</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Implications the transfer of Customary Land Registration in Melanesia

The model of customary land registration promoted in Melanesia was derived from colonial Africa, which has provided many lessons - positive and negative - for policy makers in the Pacific. It also provoked violent resistance in student demonstrations in Papua New Guinea, after proposals to make land registration a condition of a World Bank loan. The issue is highly charged and ideological. A simple technical process of surveying and recording is now interpreted in radically different ways: as the key to development through secure property rights, and as both destructive and conservative of tradition.

Nevertheless the PNG government keeps coming back to issue, and there is continuing popular demand - expressed in applications for 'tenure conversion' under an older system - for some kind of customary land registration. In Solomon Islands, where a colonial system of land registration was abandoned at independence, legislation was recently passed to allowing the recording of customary land rights. Vanuatu has introduced a tribunal to do something similar.

Implications from the transfer of Westminster Constitutions

Law has always been particularly mobile. Most private law in the West, apart from Scandinavia, derives from Roman Civil Law or English Common Law (Watson 1974: 22). The spread of Westminster style constitutions shows the power of familiar and respectable models, disseminated through a professional group. Less adversarial systems of government-by-committee were tried in Solomon Islands, and canvassed in Cook Islands, but politicians preferred Westminster. Marshall Islands broke with colonial precedents by choosing Westminster over a presidential executive.

Nevertheless there were many examples through the region of adapting Westminster to local circumstances, and of persistent institutional dualism and pluralism. A few constitutions have tried to wipe the slate clean, or entirely reconstruct the indigenous system (as Tonga did), but most recognise or show deference to some traditional institutions, such as chieftaincy or customary land tenure, at least at local level or in outer islands. Individuals often have a choice of institutions - individual and introduced - can 'arena shop' between them, and have a stake in the persistence of both or several.

Implications from the transfer of Representative Democracy

It is worth distinguishing the spread of democracy from the spread of constitutions, as they often moved out of step, and served different purposes. Constitutionalism at independence in Melanesia, for example, often acted as a restraint on popular pressures to take land back from settlers, or divide the country into smaller parts. Representative democracy was in tension with indigenous traditions of direct democracy in Melanesia, and chiefly rule in Polynesia, and elected governments at local level continue to run in to conflicts with traditional and chiefly forms of
government. In one case in Kiribati, traditional authorities have simply dissolved a local government, while in Samoa local village fono have carried out traditional sanctions against non-conforming individuals. Democracy these days gets strong support from the international system, though moves towards universal suffrage in Samoa arose from within without donor pressure.

Fiji's constitutional review pointed to the importance of pre or infra-constitutional 'Compacts', or political settlements between powerful groups, upon which the transfer of the formal institutions depended. Fiji also shows how difficult it is to restore institutions discredited in the 1987 coup, though the 1988 constitution has survived the Speight coup in 2000.

**Implications from the transfer of Public Sector Reform**

The transfer of public sector reform shows the importance of perceptions of crisis in allowing transfer, and the role of international agencies - in this case the Asian Development Bank - in promoting standardised solutions, sometimes through the work of consultants moving from country to country. It also points to the cognitive and evaluative role of institutions in explaining and justifying activities that might have taken place anyway. Countries in fiscal crises, like Cook Islands, or Solomon Islands, were forced to sack public servants and sell off public assets in order to replay loans. The donors and their consultants helped them package the inevitable in a language of reform: downsizing and privatisation.

The public sector reform efforts also reveal a growing suspicion of state activity, through the demonisation of public servants as 'rent seeking', and the revalorisation of the private sector, often the subject of earlier nationalist suspicion.

**Implications from the transfer of Anti Corruption Agencies**

In each of the cases, international organisations have supplemented bilateral transfers from country A to B. Customary land registration was spread through British colonial institutions and advisers. Westminster constitutions are creatures of the Commonwealth, with countries seeking precedents from each other as much as from the original source in London. Public sector reform was promoted by the World Bank and the Asian Development Bank.

In the 1970s, anti corruption institutions were transferred from East Africa to Melanesia, in the leadership code provisions of the constitution, and in the Ombudsman Commissions that implemented them (including an episode of South-South transfer, when PNG helped Vanuatu set up its Commission in the 1990s). In the 1990s, however the flow of anti-corruption advice was almost entirely from international institutions to particular countries. Bilateral donors often had nothing particular to offer - the exemplars were Singapore and Hong Kong, the inventor of the ICAC, and neither were large aid donors in the region. Transparency International, based in Berlin but initially seeking to influence World Bank and the OECD, developed a body of 'best practice' doctrine - published on the web. The Group of 7 hosted the formation of a Financial Action Task Force ostensibly to clear up money
laundering in tax haven jurisdictions, and called on its members to invoke sanctions
on those that did not comply.

Risk Management for Donors

Aid donors are professionally involved in the process of transferring institutions. In
this last section I identify several issues common to most of the cases, and look at
them as risks that donors have to manage.

Crisis

The transfer of institutions has often been a matter of timing and opportunity, rather
than choice and deliberate decision. In some cases (for example PNG's Commission
of Inquiry into Land Matters, or Fiji's Constitutional Review Commission) there was a
deliberate process of looking abroad, comparing alternatives, and assessing what
might be suitable. In many others (for example Public Sector Reform) a domestic
crisis led to the introduction of whatever happened to be available, and held in good
standing among professionals, at the time (in this case the New Public Management).

'Crises' were not necessarily self evident, and might have to be talked up. A sense of
crisis was hard to induce over land tenure which (to many Melanesian politicians)
seemed to be working quite well. However peaceful it might have been,
decolonisation provoked a constitutional crisis, as colonial governments withdrew,
and reframed their support for local institutions. PNG officials trying to talk up a
fiscal crisis in PNG in 1981, and at one point the Forum Finance Ministers let their
guard slip, warning at one point that economic recovery might slow the pace of
reform. 'Corruption' erupted as a diagnosis of regional problems in the 1990s, but it
was hard to identify the point at which such chronic decay might reach crisis point.

For donors, promoting a sense of crisis may create opportunities to pursue a reform
agenda, but the risk is that a package accepted uncritically, and without consideration
of alternatives, is later found irrelevant, or to have unintended consequences. Crisis
leads donors to seek solutions 'off the shelf', while recipient governments and
legislatures are badly placed to assess sensibly what they are being offered. Local
parliamentary processes are sometimes short circuited or attenuated in the name of
urgency.

To manage the risk, donors need to exercise restraint. There should be high thresholds
for declarations of 'crises' that are allowed to preempt a normal process of assessing
and adopting policy. Proposals should not be promoted that have not been canvassed
in more normal times. Crisis management should aim to restore the status quo ante,
rather than be seized on as an opportunity to promote ready-made 'solutions looking
for problems'.

Conditionality

Conditionality seems to have worked for a short period in PNG, over forestry policy,
getting the government to do something it would rather not do, but it was followed by
a breakdown in relationships between the government and the World Bank. Elsewhere, and in the ADB sponsored reforms, loan conditions embodied complicity between the Finance Department and the Bank against spending departments. In several cases the ADB seems to have encouraged governments to consult more widely than they might have otherwise done.

For donors, other less direct forms of power are also available, particularly the power to set the agenda in dealings with particularly governments and - for the World Bank - to set the agenda for 'development' more generally. Power is also linked to knowledge expressed in statistics and consultancy reports. But donors can also get stung when recipients deploy 'weapons of the weak' such as refusing their officials' visa, delaying replies, avoiding issues, and playing on divisions among donors (Larmour 2002a).

The risk of conditionality is a breakdown in regular relationship, or resistance in other, irritating, ways. Donors may not recognise the power they are wielding in less visible ways, such as agenda setting, and the deployment of statistics, reports and information. They may then be frustrated at the resistance these indirect forms of power provoke. That risk might be managed by engaging recipient governments more in these indirect processes of agenda setting and knowledge production.

Consultants

Most of the cases show the importance of intermediaries, brokers and consultants in the transfer of institutions. Several different networks succeeded each other in the case of land registration. Professional associations and values, particularly among lawyers, surveyors and accountants were powerful mechanisms for producing similarity among institutions (according to Yash Ghai, in Samoa's case, they overwhelmed constitutional provisions for the selection of the head of government that were designed to reflect Samoa's particular circumstances). There has been a growing professionalisation of advice about electoral systems from political scientists. Professional historians (Jim Davidson and Brij Lal) were influential in constitutional reviews, where trustworthiness and local knowledge were valued.

Consultants have been less important in the transfer of anti corruption agencies, were local and international NGOs have produced and disseminated doctrine. TI's spawning of an electoral reform project in PNG, which attracted EU funding, points to greater use of the professional skills of lobbying and advertising to influence popular and elite opinion to support reforms to the voting system. Donors may need to develop or buy in these kind of media and lobbying skills.

Donors wishing to promote similarity between institutions should be encouraging the growth of local professional organisation, and their links with counterparts overseas. The risk is that ideas in good standing among professional groups may be trivial, or beside the point, compared to the problems they are supposed to address. Or, like the Alternative Vote, their impact is quite unpredictable.

The risk is not managed by countering one kind of professional with another (eg relying on an environmentalist rather than an economist) or by mixing the team. Rather the donor needs to insist on empirical or comparative evidence for ideas
derived from first principles or best practice, and to include a confident advocate of local knowledge to add balance to professional teams.

**Country-specificity, Context and Culture**

It is a cliche of development administration that reforms must be country specific, and take into account the local context and culture. These cases show transfer quickly faltering without political attention. An elaborate bureaucratic system of customary land registration in Solomon Islands was simply shelved in the face of political indifference. Speight's initial successes against the 2000 constitution in Fiji depended at least in part on tacit sympathy among indigenous Fijian leaders. Lack of political support has led to inaction on all of the Vanuatu Ombudsman's reports, and TI (PNG) blames lack of political will for lack of action on all of its initiatives.

Behind the toings and froings of parliamentary politics, more fundamental political settlements between powerful groups also set limits on possible reform. Fiji's Constitutional Review Commission for example was explicitly enjoined in its terms of reference to put 'racial harmony' above all other criteria, including democracy. Its report used the term 'Compact to describe the underlying political agreement between racial groups upon which its legal superstructure would depend. In this case the compact was fictitious, though the constitution persists with the support of the High Court. More tacit interisland and interregional understandings also underlie constitutions in PNG and Solomon Islands.

Culture matters in different ways. Deference to leaders may facilitate rapid change, as well as obstruct it. Distrust and suspicion may lead to the idea there is more corruption about than there actually is. Not everyone is equally committed to values, and reformers have succeeded by recruiting marginal and minority members, as well as trying to convert leaders. Similarly NGOs may be better placed to influence from the margins, while government donors can only deal with those in power.

The research also suggests importance of offering immediate practical advantages to clients and users. Customary land registration offered immediate advantages, leading to a queue of applications waiting in PNG, even if its systemic effects were more contested. Constitutions offered less to ordinary people, though opportunities for leaders. Representative democracy offered the opportunity to vote. Anti Corruption agencies offered the opportunity to complain.

Nevertheless, institutional choices were not simply pragmatic. The prestige of Westminster overcame arguments for less adversarial, or cheaper alternatives. Nor were they simply incremental - some of the rhetoric around Public Sector Reform (especially in Vanuatu) and anti corruption agencies offered the prospect of radical change, root and branch reform, zero tolerance and so on. Donors tend to be practical officials, uncomfortable with the dramatic and sometimes intractable aspects of public policy.

There are several risks here: of political inattention; of inconsistency with underlying political settlements; of alienating leaders by working with marginal groups (and vice versa); or failing to offer immediate practical benefits.
The these risks might be managed include lobbying, polling, and public diplomacy to keep issues in front of politicians; political analysis that looks beyond parliamentary politics and elections to more fundamental political forces (which would lead to more informed strategic judgements about who should be targeted); and ensuring that immediate and practical benefits sustain demand for reforms.

Reiteration

The proponents of particular episode of transfer were often disappointed, but shifts in thinking did occur over the longer haul. The transfer of customary land registration to Melanesia failed in one sense, but governments (and individuals) show a continuing interest in some kind of registration.

Similarly, particular episodes of public sector reform disappointed their sponsors - the World Bank and the ADB - but thinking about the public sector and privatisation is probably shifting over the longer term. The career paths of aid officials may prevent them from taking a longer view - its all new to them, and success is measured in terms of the length of their current posting.

In some cases, failed donor interventions may provoke domestic debate that leads to indigenous initiatives (as when the police and other agencies in PNG proposed a national task force to deal with corruption, as an alternative to the imported idea of an ICAC). At other times the debates are repetitive and entirely conventional, as both sides once again stake out familiar positions (as in debates about land registration and, perhaps, corruption).

The risk is here is seeing 'institutional transfer' as a single episode that succeeds or fails. It might be managed by improving institutional memory, adding new evidence or arguments to long running debates, like those over land registration, and working through educational institutions that sustain longer term shifts in opinion.
Larmour, P., 2002c ‘Policy Transfer and Reversal: Customary Land Registration from Africa to Melanesisa’ Public Administration And Development 22: 151-161


