



Why some transferred policies remain transferred entity and not indigenous

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Abstract

The paper intend to explain the role of public opinion on the policy transfer and evaluating the success of such policies. The salience of the policy matter might be low at the initial stage of transfer and have a probability for it to increase at some point of time. Improper awareness about the subject of policy might distort the shaping of public opinion regarding the policy matter and could affect the proper policy implementation. The public policy's informal relation with the public opinion and the micro factors which shapes the opinion need to be analyzed. This gap in the literature regarding policy transfer is addressed in this paper.

Keywords: policy transfer, public policy, policy success, policy failure, policy implementation, micro factors, public policy

Introduction

Policy transfer is not an alien process nevertheless we often fail to recognize it. It is also notable that the process gained academic attention only few decades back. The literature on policy transfer is in its growing stage and still some areas in this topic remains untouched. It could be observed that even after long years of policy transfer, the policy that are transferred remains a foreign entity in the host nations, without developing an endemic nature. Usually we think about how transferred policy exert its influence on a host country's socio-political economic and cultural situations and decision making process. But it is also important to think contra i.e., we should also analyze how the socio-political economic and cultural situations and other aspects of a host country affects the working of a transferred policy in the host country. The question of whether they bring gain or distortion to the policy outcomes need to be addressed properly. In such setting emerges the importance of public opinion. The above said conditions of a political unit shapes the public opinion there. Public opinion can be potential hindrance to the proper implementation of the transferred policy. This become worst in heterogeneous national settings. The biggest drawback of the policy transfer study is that it is still euro-centric and have hardly any consideration for non-European, non-western political situations. This paper tries to fill the gap in the literature by regarding the role of public opinion in the policy transfer process and also provides an insight into the micro-factors which shapes the public opinion in a political unit.

Role of public opinion in public policy

The question about the role of public opinion in public policy is extensively discussed. But the query is often answered superficially. The symbiotic relationship between public opinion, public policy and the democratic responsiveness is always baffling. It is always doubtful that to what extend democratic responsiveness could be witnessed in policy making. The public opinion is said to inherently have certain drawbacks which slows down the democratic responsiveness. In the article "Effects of opinion on policy" page and shapiro (1983) ^[10] portrayed all the theoretical contentions about the effects of public opinion on public policy. Some theories suggested high responsiveness and others with less responsiveness. The evidence supported that the opinion change affects the policy. But the problems in researches made them hesitant to accept their own conclusion. This clumsiness could be found even in the further studies following this.

There were theories with high responsiveness view which also later diverged and there are still some (Stimson, MaeKuen, and Erikson, 1995) ^[11] theorist who believed the democracy works as it is supposed to, with public officials consistently responding to Shifts in public opinion. This View was not acceptable for all the theorists. There were many who addressed the precarious nature responsiveness as it is nurtured in the matrix of intricate modern political scenario; Jones [1994] ^[8] argues that inherent limitations in both the cognitive capacities of individuals and the organizational capabilities of congress means that responsiveness is likely on only few issues that the public cares about a great deal at any given time Zaller [1992] ^[15] and other [Glynn. *et al* 1999: ch.8] ^[6] affirm that on many subjects the public might not be able to form a well defined opinion. So in situations, the policy may be a result of other forces. This may be right at the time of policy transfer the advancement in theories that took over the correlation between, opinion and policy appears to have made the topic more, indeterminate and imprecise. Even after long time from the inception of these studies the query stood unanswered. Here appears the claim about salience it points out the impact of salience on the matter of

democratic responsiveness. Theorist in this matter reaches to a conclusion that a few issues at a time can be salient to the public and legislature and responsiveness is high. Primarily when salience is high, then responsiveness is high on only those few issues [Jones 1994:ch.10] ^[8]. Thinking deeply, those long historical struggles around the globe were to ensure democratic responsiveness. There can be errors in system that prevents responsiveness to a great extent. The communication, transportation and information processing may enhance citizens connections to their elected officials [Clemens 1997; Hansen 1991; Walker 1991: ch.1] ^[3, 7, 12] Public opinion polls may increase politicians' knowledge of citizens' preferences [Geer 1991] ^[5]. And the rise of interest groups may have enhanced responsiveness as well [Clemens 1997] ^[3].

This remains a very much positivist narrative of the discourse it is not always true to think that the politicians are ready to be highly accountable to the public and there exist less chance for them taking high effort to let the public form their own strong opinion on everything. The government, state politicians and bureaucrats might not be interested in knowing the public choices, as their interest precedes every other interests and opinion. The role played by interest organizations do not always represent public opinion the policy is really determined by interest organizations political parties and elites particularly economic elites the resources available to interest organization an elites may enable them to get what they want, even in opposition to public opinion [Domhoff 1988; Wilson 1990; Wright 1996] ^[13, 14]. The case can be witnessed may a times in our day to day lives and can be asserted as general tendencies and not blind generalizations researches proves that the statistical significance is measured more that substantive significance [Burslein, 2002] ^[2] in knowing variable affecting responsiveness. So in such a vague trajectory of research regarding the role of public opinion in the public policy formation, we couldn't make sharp generalization like public opinions have hardly any role in the public policy synthesis. The salience argument really need to be emphasized while conducting further studies because lack of salience does means ignorance. When it is said that policy formation could take place in a situation that the public might not have good knowledge about the policy area it does means that policy formation take place when the public is totally unaware of the matter and when the public get pretentious by the policy matter at a point of time they might retrospect against the entire policy. This will be situation of high salience. So a situation of high salience could not be taken that lightly it might not be a sagacious assertion that policy could be made in situations of low salience. This forces us to make a conclusion that before a policy formation process there should be an effort to bring cognizance to the public about that policy matter.

Role of public policy on policy transfer

If public opinion affects public policy, It is certain that the public opinion has its role to play in the policy transfer process. Dolowitz and Marsh [2000] refers policy transfer as 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 arrangement, institutions and ideas in another political system. It is a way in which policy formation happens in political units. So it is obvious that public opinion has its own definite part to play in this process.

In most cases transfer is conceptualized as lying along a continuum that runs from lesson drawing to the direct imposition of a program, policy or institutional arrangement on one political system by another [Dolowitz and Marsh, 2000]. Here, there exist no clear cut distinction between voluntary and coercive transfer and in many cases as per Dolowitz and Marsh [2000], transfer involve both voluntary and coercive elements. In the above said continuum researchers and theorist forget to place the picture of the host nation and its society.

As said in the previous section public might not be aware of policy when it is transferred or adopted and when the policy subject becomes salient there is chance for the public to retaliate against the policy decision and could even become a hindrance to the proper implementation of the very policy. This problem will be grievous in case of transnational policy transfer. Because when transfer takes place between domestic political units, the public will have some insights regarding the transferred policy and could predict its outcome at least to certain extend.

Dolowitz and Marsh [2000] when pointing about "what restricts or facilitates the policy transfer process?" they tried to involve the opinion aspect but here they assume interest groups as the epitome of public interest. The interest groups might represent some groups better that other [Baumgartner and leech 1998: ch.6]. The interest of the interest organizations need not represent the public as a whole. For Dolowitz and Marsh, The Public interest only means the interest of the intended group whom the policy might affect. It is always to be noted that the acceptance from a small group of people whom the transferred policy is meant for will not means the acceptance of the general public in the host nation. A policy is enacted for and entire political unit and thus it will have repercussions in the entire population directly or indirectly. This will be more visible in case of sensitive issues. For example, if a state want to formulate a transgender policy, it not only needs the support and acceptance of people from the transgender community. Only in a sensible and gender sensitive society, this kind of a policy could gain positive outcomes. If the people in that state doesn't have awareness about transgender and the problems that they face the public might not be able to find the rationale behind the policy. Afterwards, the restorative measures taken for the transgender might get questioned, if the general public lacks the awareness about the aforementioned community and there is a greater chance for policy failure.

This omission might have took place because the policy transfer study was mostly Euro-centric. The public opinion and public policy share an inmost relationship mostly in a heterogeneous social milieu or else for a study of policy transfer policy success and the role of public opinion, a heterogeneous environment might he a better laboratory. In a society where there exist different sections, a society divided on different lines, where there are

minorities and majorities of various kinds and exist privileged as well as vulnerable sections, it won't be easy to transfer a policy without public agreement.

Whether heterogeneous or homogeneous, if the policy matter is not cognized to the general public, they might not be able to understand the reason and purpose behind the implementation. Once when this policy matter becomes an issue in one or the other way, the public have a great chance of getting agitated without knowing the purpose and the crux of the policy transferred. In many cases the lack of awareness to the people about the policy matter from the government may make them prone to the influence of the exaggerated notions of the media of different kinds. Such unauthentic comprehension about the policy subject might make the public backlash against the policy, making the government under pressure. They may even force the authority to change the policy on the line of their apprehension about the subject.

The Juvenile Justice system in India stands as perfect example for a transferred policy regime which ignored the public awareness and public opinion aspects children are believed to be more fragile than adults in all aspects. They develop at different rate and will be at varying maturity levels at any given age [Stephen, 2008]. After ratifying the UN Convention on Rights of the children [CRC] in 1992, India enacted Juvenile Justice [Care and protection of children] Act 2000. This set the upper limit of age of Juvenile delinquents as 18 years of age. Even after having acquainted to a legal framework the matter of who is a child remain ambiguous. The children below the age of 7 is believed to be incapable of doing crimes [doli incapax]. This is such a small age to entail criminal responsibility. The age of children in different laws existing in the nation is prescribed differently and the personal laws also doesn't have a homogeneous answer about people of which age group should be considered as child or children.

A report on The Hindu News Paper points out that in child labour [Prohibition and Regulation] Act 1986 - a child is defined as a person who has not completed 14 year of age. Other laws around child rights such a trafficking, marriage and Juvenile justice have variable definition of child, adolescent and adult. As per this law a child means a person who has completed fourteen years of age. The Motor Transport Workers Act 1961 and the Beedi and Cigar workers [Conditions of Employment] Act 1966, both define a child as a person who has not completed 14 years of age.

Matrimonial laws such as prohibition of Child Marriage Act, 2006 add to the confusion. It states that a male cannot attain maturity until he is 21 years of age and the corresponding age for a female is 18 and at the same time a ruling by Delhi High Court Suggest that a Muslim girl can marry without the consent of her parents when she attain the age of Puberty [Sikdar, 2012]. All these add confusion to query about 'who is a child?'

The lack of awareness about the policy matter makes it impossible for them to form a bonafide public opinion. This paucity of appropriate opinion will have its effect only when the policy matter gets salience at some point of time. This can be said as the dominant ground on which transferred policies remains an imported entity without developing an indigenous nature. The existing laws itself have created puzzlement in the minds of the subjects about who are children, are they really capable of doing crimes, should there be different laws to deal with child crimes, should they be given concessions on punishments etc. From the inception of the enactment of Juvenile Justice Act [2000] in India, it is some what clear that there were no public opinion formed for or against the system.

The subject began to become a big fuss when a girl in the Capital City [Delhi] got brutally raped by a group of men. The confusion about Juvenile Justice System gain momentum because one among the culprits was a person who was below the age of 18. The media gave it more emphasis by reporting in such a way that, it was the Juvenile offender who attacked the victim more brutally than the other offenders. In fact it was a groundless claim. Undoubtedly, it was an atrocious crime but still there were no clue to support the media's averment of the extra ferocity of the Juvenile delinquent. Even though it was an insubstantial claim, this has elevated the rage of the public. They were on the point that, how could the offenders who did such a brutal crime be treated differently. This question put forward by the public were purely based on the common sense ethics, which doesn't consider the scientific aspect behind the Juvenile Justice System. The intense debates and dialogues took place among the child rights activists, victim supporters, women right activists and Ministry of women and child development.

The heated up debates have brought out many disagreements with the existing Juvenile Justice System and the government was forced to pass a new Juvenile Justice Act - Juvenile Justice Act 2015. There were many provisions in the act regarding adoption and other aspects but the notable point is that the persons in the age category 16-18, if done any heinous crimes, have to be sentenced like adult offenders and not Juvenile delinquents. This confirms our notion about how improper alertness about transferred policy matter among the public could hinder the proper implementation of the policy in the host nation.

Conclusion

The policy transfer studies are relatively recent and they centered mainly around policy transfer process and the object of transfer. The policy process is said to be a failure if it is an uninformed, incomplete or inappropriate transfer [Dolowitz and Marsh, 2000]. But it never spoke about the role of public opinion [in the host nation]. In the policy transfer. The study clearly states that for a transferred policy to become successful and to develop an indigenous nature, there must be awareness and alertness given about the policy matter and the rationale behind the transfer to the public of the host nation by the authority. The transferred policy subject might not be that

relevant during the transfer but the problem arises when it become salient. That time information that the public receives might be distorted and from many unauthentic sources. This distorted data will be the one which shapes public opinion regarding the transferred policy subject. This public opinion can be great hindrance to the proper implementation of the policy and also prevent them from developing an indigenous nature. It is also not accurate to mark that it is only some unauthentic information alone that shapes the public opinion. There can be many micro variables or micro factors that effects and there on shapes the public opinion. It might be the influence of religions, existing social believed, taboos, different functionalities that exist in the nation. This factors and their influence have to be studied deeply to understand the public opinion formation in a state. It is to conclude that a lot more study on these aspects have to be done to make the policy transfer study complete.

The micro factors that shapes the public opinion need to be studied extensively to check the public opinion formation and also use it as a measuring scale for the policy transfer success.

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