State Services Commission and the Australia and New Zealand School of Government present:

Policy Transfer: Public Policy in the import/export business

Moderator

Simon MacPherson
Chief Policy Advisor
Ministry of Social Development

Speakers

Emeritus Professor Arie Freiberg
Monash University

Andrew Jackson
Deputy Chief Executive
Ministry of Transport

Please switch off all devices for the duration of the seminar
Policy transfer: Public policy in the import/export business
Arie Freiberg

SSC/ANZSOG APPLIED LEARNING
9 FEBRUARY 2016
WELLINGTON
What is policy transfer/diffusion

When one government’s policy choices are influenced by choices made earlier by other governments (Shipan)
THREE STRIKES AND YOU’RE OUT: IT’S JUST NOT CRICKET
Australia: a penal policy transfer

- Australia started as a colonial export
- Colonisation brought with it English statutory and common law
- Also borrowed from the USA in the 19th and 20th centuries
  - Probation system from the UK and US
  - Habitual criminal and indeterminate sentencing laws
  - Criminal appeals from UK 1907
  - Parole in Victoria from USA in 1950s
  - Community-based orders from USA and UK in 1960s and 1970s
Good and bad transfers

<table>
<thead>
<tr>
<th>SOME GOOD POLICIES TRANSFER</th>
<th>SOME BAD POLICIES TRANSFER</th>
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<tr>
<td>SOME GOOD POLICIES DON’T TRANSFER</td>
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Criminal justice policy diffusion in Australia

- 1960s and 1970s: community based orders
- 1980s: consolidated sentencing laws
- 2000s: problem-oriented courts eg drug courts
- 2000s: sex offender registration/working with children checks
- 2004: dangerous sex offenders laws: Queensland; Fardon’s case
From whom?

- Other countries?
- In Australia: other states: a federal system allows for some degree of experimentation
- Culturally similar jurisdictions?
- Language? We tend to ‘globalise’ penal policy along Anglophone lines:
  - USA, UK, NZ; Canada
- But not
  - Nordic countries, Western Europe
To whom?

- Australia > >>>> HECS
- Case mix funding
Transfer or zeitgeist?

- Policy changes as a result of socio-economic changes?
  - Neo-liberalism?
  - Privatisation
  - De-regulation?
  - Managerialism?
  - Actuarialism?
  - The risk society?
  - Small government?
  - Individual responsibility?

- Globalisation rather than transfer? Globalised information travels fast and wide
How? Policy entrepreneurs

- Policy entrepreneurs: people who devote time, energy and political capital to pursue a specific policy goal
- Can be governmental, private individuals, academics, judges, ex-politicians
- They
  - Define and frame the problem
  - Build a team
  - Gather evidence
  - Develop wide range of supporters
How? Policy entrepreneurs

- Social impact/benefit bonds: developed in UK in 2010 and brought to Australia and now spreading through a number of jurisdictions.
  - 2012 David Hutchison, Social Finance UK spoke in Australia about SIBs and the idea took hold

- Justice re-investment: An idea from early 2000s that has gradually developed in the US and taken up here by Dave Brown, UNSW and retired judge Harold Sperling
  - Ideas still being propounded and tested
How? intellectual leaders

- The highly influential
  - Behavioural economics/nudge eg Kahneman, Sunstein, Halpern
  - Restorative justice (NZ) eg John Braithwaite
  - Responsive regulation eg John Braithwaite
  - Really responsive regulation eg Julia Black
  - Therapeutic jurisprudence eg Winick and Wexler
  - Drug courts eg Peggy Hora
How? Policy networks

- Experts: academics, bureaucrats
  - Gather evidence
  - Publish papers
  - Conferences and seminars

- Diffusion of information through citations: citation analysis
Institutions

- Think tanks:
  - Institute of Public Affairs Australia
  - Grattan Institute
  - The Australia Institute
- Advisory Councils
  - Victoria, Tasmanian, NSW Sentencing Advisory Councils
- Research bodies
  - Australian Institute of Criminology
- OECD
- USA – American Legislative Exchange Council (model legislation for conservative governments)
- Standards institutions eg International Standards Organisation
How? other

- Politicians’ fact finding tours
- Media: public and social
- Increased journal access/internet
- US hegemony (pervasive cultural, media, economic and linguistic dominance?)
Good ideas or bad?

- Three strikes laws
- Truth in sentencing
- Boot camps
- Capital punishment
- Anti-social behaviour laws
- Confiscation of proceeds of crime
- Preventive detention: detention and supervision orders
- Sex offender registration and notification
- Mandatory sentencing
- Compulsory treatment for sex offenders/castration
- War on drugs
Good ideas or bad?

- Restorative justice
- Problem-oriented courts eg drug courts; mental health courts; indigenous courts
- Therapeutic jurisprudence
- Neighbourhood justice centres
- Justice re-investment
- Jury sentencing
- Private prisons
- Social impact bonds
- Broken windows/zero tolerance
US(A) v them: general factors

Why borrow ideas from the country with the highest incarceration rate in the world whose laws are ineffective, expensive, inhumane and discriminatory????

- American exceptionalism vs American hegemony
- Global > national>local
- Populism vs professional expertise
- Attitudes to government
Why do good ideas not travel?

- Cultural differences: why are we not more like the Nordic countries?
  - Demographics: social homogeneity; degree of inequality
  - Politics: corporatism vs adversarialism; welfarism vs individualism; centralised vs fragmented/federalised; strong vs weak states
  - Media: tabloid vs broadsheet
  - Degree of influence of religion
  - Historical determinism/path dependency
Why do good ideas not travel?

- Ideas are too complex
- Lack of policy entrepreneurs
- Hard to measure/evaluate

NZ Synthetic Drugs legislation???
Why do bad ideas travel well?

- Simplistic solutions to complex problems
- Emotion rather than evidence drives decision
- Policy-based evidence; emphasise the good, ignore the bad
- Short term fixes vs long term strategies
- Political imperatives: high salience problems
- Ignore local differences
- Over-generalise findings and applicability
Think global: act local?

Learn but do not copy (Shipan)…..

Imitation is the sincerest form of flattery but you lack my personality, talent, & creativity so just stop it before you hurt yourself.

Bless your heart.
Think global: act local?

- Transfer but adapt
  - Legally appropriate
  - Culturally appropriate
- Costs and benefits
- Evidence of effectiveness
- Travel and see
- Learn languages other than English
Dealing in second hand policy

Diffusion of ideas is a good thing
Diffusion of a specific idea may not be

So.....how do we find the good ones, or at least avoid disaster?
Policy is the art of the possible *not* the art of perfection.
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Has to fit with the culture
Two wrongs do not make a right
Policy is the art of the possible *not* the art of perfection.

Evidence

Society

Business
Understand the context

<table>
<thead>
<tr>
<th>BAC</th>
<th>30+ years</th>
<th>20-29 years</th>
<th>15-19 years</th>
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<tbody>
<tr>
<td>0</td>
<td>1</td>
<td>3</td>
<td>5.3</td>
</tr>
<tr>
<td>30</td>
<td>2.9</td>
<td>8.7</td>
<td>15</td>
</tr>
<tr>
<td>50</td>
<td>5.8</td>
<td>17.5</td>
<td>30.3</td>
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<tr>
<td>80</td>
<td>16.5</td>
<td>50.2</td>
<td>86.6</td>
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Understand the context
Balance the costs
Global Financial Crisis

64.02%
42.67%
53.91%
38.25%
31.09%

Stock Shares
Policy is the art of the possible *not* the art of perfection
Thank you
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## Upcoming Applied Learning Seminars

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<th>Topic</th>
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<tr>
<td>Picking the Melbourne Cup winner - uses and abuses of statistical modelling</td>
<td>Auckland</td>
<td>14 April</td>
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<td></td>
<td>Wellington</td>
<td>18 April</td>
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Speaker: George Argyrous

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**Enquiries**

Applied Learning  
T +61 3 8344 1900  
appliedlearning@anzsog.edu.au

Details online at [anzsog.edu.au](http://anzsog.edu.au)
# Upcoming Executive Education Workshops

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<th>Course</th>
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<tr>
<td><strong>Recognising Public Value</strong></td>
<td>Melbourne</td>
<td>25-26 February</td>
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<td>Course leader: Mark Moore</td>
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<tr>
<td><strong>Policy and Program Skills</strong></td>
<td>Canberra</td>
<td>5-7 April</td>
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<td>Course leader: Michael Mintrom</td>
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<tr>
<td><strong>Applying Behavioural Insights</strong></td>
<td>Wellington</td>
<td>2-4 May</td>
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<tr>
<td>Course leaders: David Halpern and Rory Gallagher</td>
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**Enquiries**

Executive Education  
T +61 3 8344 1984  
Executive.education@anzsog.edu.au

Details online at [anzsog.edu.au](http://anzsog.edu.au)
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