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## **Lean Management in the French State and Judicial System: Resistance and Reform**

Cécile Vigour

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### **Abstract**

The chapter focuses on how, and by whom, Lean management was transferred from the private to the public sphere and conceived as a relevant tool to reform the French state, and more specifically the French judicial system. The chapter undertakes a precise context-tracing analysis which pays attention to the leading role actors play in seizing opportunities, selecting and adapting instruments. From a theoretical perspective, this chapter highlights the multi-layered process of translations through which an idea is transposed to fit into its new context (Callon, 1999; Morris and Lancaster, 2005). It examines the conditions for transfer, the content of the policy and the depth of the changes introduced.

This chapter shows that the concrete ways the transferred policy is implemented has a crucial impact on whether or not it is successfully appropriated. Therefore transfer analysis should consider the historical development of the process, possible alterations in content and in the meaning of what is transferred, as well as the counter-translations proposed by various agents that challenge the transfer. The greater the distance between the rationale of the transferred policy instrument, and the professional and administrative recipient setting, the more the need for adjustment and translation become evident. Policy transfers from the private to the public sector are best facilitated by transfer agents who have both the experience and understanding of the specificity of the concerned policy field and professional cultures. Moreover, transfers may lead to a shift in the balance of power *between* professional groups, as well as *within* the same group.

**Keywords:** France; justice; law professions ; lean management; policy instrument; state reform; policy transfer.

## **Introduction**

This chapter focuses on the relationship between policy transfer and the policymaking process by highlighting the micro-mechanisms and interactions between players involved in the transfer of management instruments from the private to the public sphere. In doing this three main dimensions need to be taken into account.

First, we need to examine the degree of autonomy of actors and the leading role they play in seizing opportunities, selecting and adapting instruments (Delpeuch, 2009), since “the targets are active shapers of institutional change” (Börzel and Risse, 2012: 204). This is a crucial issue, and pertinent irrespective of the balance of power between agents with unequal resources and ability to promote their ideas and interests (Dezalay and Garth, 2002). Within this perspective, two triggers for policy transfer need to be taken into account. On the one hand, transnational elites and agencies encourage the circulation of political, administrative, and managerial norms and models, through the identification of “best practices” and benchmarks (Bruno and Didier, 2013). On the other hand, the search for legitimacy (Di Maggio and Powell, 1991) leads actors to conform to cognitive and organizational frames dominating a specific context - a process Meyer and Rowan call isomorphism (1991; Lodge, 2005). This chapter examines the distribution of power between and among professions, between ministries and agencies in charge of state modernization, as well as between ‘policy entrepreneurs’ (Kingdon, 1995). It also focuses on the properties, skill-sets, and professional knowledge of transfer entrepreneurs, as well as on the way they select and transpose policy instruments.

Second, from a theoretical perspective, this chapter highlights the multi-layered process of translations (Callon, 1999; Morris and Lancaster, 2005) through which a procedure or idea is transposed to fit into its new context, and more specifically is adapted ‘from the broad policy level into a set of specific practices’ (Morris and Lancaster, 2005: 207). Thus,

the distance between the host and originating settings is reduced by use of different organizational change interventions [...] The degree of translation required for an idea to be adopted in a new setting depends on the *distance*, i.e. the degree of geographic and context

difference, that the idea is travelling and how actively importers of ideas engage in the search for and adaptation of novel ideas. (id.:208-209).

This process of translation induces several displacements in terms of expertise, identities and ways of doing things. Focusing on the actions of diverse groups to make others subscribe to their project re-establishes the link between endogenous and exogenous factors in policy transfer processes. It also makes it possible to examine both the conditions for transfer and the content of the policy (Stone, 2012).

The third and final dimension concerns the focus on policy instrumentation (Hood, 1983). Seen from the viewpoint of political sociology, instrumentation is known to ‘produce specific effects, independently of the objective pursued, which structure public policy according to their own logic’ (Lascoumes and Le Galès, 2007: 1). Scholars should thus be attuned to both the material and the procedural context of policy, not just to the symbolic dimension of this process. As such, this study adopts a political sociology approach to public policy, while being sensitive to policy instrumentation, to the sociology of professions, and of organizations.

By undertaking a precise context-tracing analysis which pays attention to actors and the role of intermediaries, especially the way the transferring actors actively shape the transferred object, the chapter draws conclusions regarding crucial factors for the success (or failure) of policy transfer. The analysis considers the distance of the recipients to the initial model; the importance of actors who can translate and work across two distinct organizational cultures to facilitate private-public transfers; the interests of specific actors within the recipient organization; the way the transferred object interacts with the recipient context (such as the professional culture, the characteristics of the work, the power of the internal hierarchy), and the existence of counter-interpretations that challenge the transfer.

The chapter focuses on how, and by whom, Lean management was conceived as a relevant tool to reform the French state, and more specifically the French judicial system.<sup>1</sup> Lean management is a management method based on reviewing work processes in order to make efficiency gains. It was first developed in Japanese industry, before spreading to private services and then to public services. The analysis put forward in this chapter shows that the concrete ways the transferred policy is implemented has a crucial impact on whether or not it is successfully appropriated by actors. For even though Lean management might have been expected to run into stiff resistance from legal professionals, in certain courts it was received favorably. The presentation of the case studies is followed by an analysis of the three main processes through which Lean management was adapted and transferred. Part two deals with the reinterpretation of the Toyota production system as a universal Lean management instrument, the way it was transferred to the French public services, and the characteristics of the consultants and the high-ranking civil servants involved. Part three discusses the conditions under which Lean management was implemented and the impact it had in the French judicial system. Finally, highlighting the resistances it triggered in some courts, discussion details the counter-argument made by the main professional unions and the counter-translation put forward by the new reform program launched in 2012-13.

### **Management Reforms and the French State**

This study of Lean management is based on an analysis of French administrative reform, especially in the judicial system. France is an interesting case for three main reasons. First, public services are deeply rooted in French culture and hence critics tend to focus more on how public services function rather than question the need for the continued provision of particular services by the state.

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<sup>1</sup> This field survey is part of a larger research examining the transformation of the judicial system and how this relates to administrative state reform in France and across Europe. It has received the financial support of the French Justice research public interest grouping (from 2008 to 2011) and the Regional Council of Aquitaine (2014-2017).

Second, private consultants who have been identified as key drivers in pushing the widespread and rapid take-up of neo-liberal and managerial-driven administrative reforms in the United Kingdom and Canada, became involved much later in French state reforms (Saint-Martin, 2000). Third, since 1993 reform policies have systematically questioned the organization of the administration and the management of its resources and personnel. Reform commissions were composed of high-ranking civil servants who imported New Public Management (NPM) practices and developed a French adaptation of its principles. Such an adaptation resulted from transnational and repeated interactions between French civil servants and their peers from other reforming countries in forums in which high-ranking French civil servants being increasingly involved – such as the OECD's public management committee: 'The internationalization of management methods due to transnational transfer mechanisms and normative pressures [...] legitimized generic "management standards" [...] By the end of the 1990s, certain] high-ranking French civil servants had the same organizational and management norms as the transnational advocates and consultants advising them' (Bezes, 2012: 30).

Even though NPM varies over time and across countries, in France since the mid-2000s it has been defined by the following characteristics. There is an emphasis placed on efficiency; a more systematic use of private-sector management tools and practices; interest in measuring performance and focusing on results; work process reengineering; staff management with increased supervision by the upper echelons of the hierarchy; cost management and 'more contract-based competitive provision', and the creation of 'corporatized units' (adapted from Hood, 1995: 96). In addition to numerous sector-specific programs, two national programs have had a large impact on French administrative reforms. The first is a set of new rules on the allocation, management, monitoring, and performance assessment of the state budget (the 'LOLF', that was passed in 2001 and has been implemented since 2006); and the second concerns the 'General Review of Public Policies' (RGPP, 2007-12). This second reform was inspired by the Comprehensive Spending Review implemented in Great-Britain in 2002 and by similar policies in Canada and European countries. These

‘constitutive policies’ (Lowi, 1985) seek to transform and impose principles, rules, and general instruments across the entire administrative system.

The French court system is a ‘hierarchical system of professions’ (Abbott, 1988) and traditionally recognized as a ‘professional bureaucracy’ (Mintzberg, 1993).<sup>2</sup> Indeed the magistracy, as a self-regulating professional group, enjoys considerable autonomy and dominates the organization and functional arrangements of the courts. In contrast court clerks have their own distinct bureaucratic hierarchy. Both professional groups are characterized by their longtime reluctance to introducing managerial principles and tools (Vigour, 2006). Magistrates in particular play a major role in shaping judicial policy (Vigour, 2014). During the 1980s a modernizing policy was introduced that addressed ‘the methods and functioning of the institution without fundamentally altering the principles on which it was founded’ (Dumoulin and Delpuech, 1997: 128). However, managerial reforms introduced since the 2000s have resulted in profound changes to the principles of action, and to the professional identity and the legitimacy of magistrates and clerks (Vigour, forthcoming). Indeed, in administrative and parliamentary reports, as well as in certain books written by legal professionals to promote change, justice as a value and a legal institution has been progressively distinguished from justice as a public service. An upshot of this distinction between service value and administrative systems is that court management and organization and the network of justice services more generally became susceptible to general public sector reform as applied in other agencies. This process of change was inspired by NMP principles, but also by the desire of some legal professionals to improve access to justice and justice services. It focused on boosting efficiency, making better use of resources, and reviewing and improving working processes. These approaches to organizational change were founded on the idea that the previous lack of attention to organizational issues explained why court proceedings were so slow and time consuming.

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<sup>2</sup> A professional bureaucracy is an organisation composed of highly qualified professionals with a large autonomy. Coordination is carried out by a long training; the sharing of a professional culture, via which each learns his or her role and that of the other actors involved; and the oversight the profession exercises over itself.

The implementation of Lean management in the judicial system is typical of this managerial turn. This systemic management method focuses on rationalizing work processes and eliminating waste. What differed from previous reform of the judicial system is that Lean management includes management techniques taken from the private sector. In addition there were new actors including private sector consultants and the state agency in charge of “administrative modernization”, the DGME who were working together to design and progress organizational change.

This chapter examines the factors and the circumstances that help explain why in some courts Lean management has been adopted by magistrates and clerks, and dramatic administrative changes successfully implemented. While the willing adoption of some Lean management changes was unexpected (Berkowitz, Pistor and Richard, 2003; Delpuech and Vassileva, 2009), there has been resistance to reform in other courts. The study of three courts shows that in one reforms have been well accepted, in another reforms were rejected outright and in a third court the reforms were not effectively sustained though the approach to reviewing practices did have a noticeable impact on procedural delays.

This study draws on twenty-six face-to-face interviews conducted between 2011 and 2014 with clerks, magistrates, high-ranking civil servants at the Ministry of Justice and in three Courts of Appeal, as well as with members of the staff at the DGME involved in the transfer.<sup>3</sup> The second main source used here is analysis of the documentation produced in the Courts under study (the presentations of the Lean management method, the preliminary and final diagnosis, the formalization of the processes, and the decisions). I also examined official reports and documents about Lean management produced by the trade unions, and several presentations given as part of official training programs conducted by DGME staff or magistrates.

The following discussion focuses on the three main processes through which Lean management was adapted and transferred into the French public service at national and local levels.

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<sup>3</sup> I conducted 60 other interviews on other managerial changes in the French state and the judicial system since 2007 (implementation of ISO standards; new measurement procedures; national budget reforms).

## **Lean management as an instrument of policy change in the French administration**

The first step of this translation process relates to the conceptualization of Lean management as an instrument of policy change in the French state. In 2007 a new program of administrative reform (the RGPP) focused on audit teams reviewing the objectives, spending, outcomes, and *modus operandi* of the main state public policies. Three main measures were taken and this included efforts to significantly reduce the number of public sector recruitments; restructuring some decentralized departments and pooling certain services; and streamlining the organization of work practices. Lean management was championed as an appropriate way to attain this final objective.

The RGPP displayed three characteristics. First, administrative audits were conducted by outside bodies such as private sector consultants, together with state agencies, and audits systematically linked proposals for structural reform to reductions in public spending or increases in performance. Second, since the end of the 1990S, the Ministry of Finance systematically had imported and appropriated managerial methods disseminated by the OECD or inspired by foreign practice. This continued under the RGPP process. Third, British- and American-based multinational consultancies and major strategic consultancies set up national subsidiaries specializing in ‘public services’. By the mid-2000s these firms were heavily involved in reorganizing the services of the French state. A common feature of these firms was their tendency to favor the transfer of ‘methods and know-how relating to change monitoring (reporting, dashboards, information feedback and progress reports) and forms of presentation (PowerPoint-type slideshows instead of reports), together with “specific reorganization knowledge” ’ such as Lean management (Bezes, 2010: 788).

The following section highlights the leading role played by the *Direction générale à la Modernisation de l’Etat* (DGME) in promoting Lean management. Discussion outlines how Lean management was institutionalized within the French administration via a multi-layered process of transposition.

## **The key transfer agents**

The key transfer agents were the DGME within the ministry of Finance, and consultants. The transfer of Lean management across the French public sector was driven by the DGME. This was an agency set up in 2005 to oversee ‘state modernization’. The DGME acted as an intermediary between the public sector and the private sector, though more specifically large consulting firms. The staffing profile of DGME was noticeably different to the traditional French civil service model. It included both high-ranking civil servants (some of who had held positions of major responsibility in private consulting firms) and former experienced consultants working on short-term contracts (who accounted for almost two thirds of the 140 people working at the DGME in 2011). The former consultants came from the major global firms and included McKinsey, Ernst & Young, PriceWaterhouseCoopers, Deloitte, Accenture, Capgemini, and Roland Berger. They were recruited as idea and method brokers, with the goal of capitalizing on the expertise within the consultancy sector and transferring private sector instruments and methods such as Lean management that were considered pertinent for transforming work practices across agencies.

For instance, the director of the DGME between 2007 and 2012, F-D. Migeon, was seen to have “dual DNA, as a high ranking civil servant and consultant in executive strategy management” (DGME, 01). He was an alumni of the *Ecole Polytechnique* and the *Ecole Nationale des Ponts et Chaussées*, the highest ranking elite postgraduate schools in France. He had worked for McKinsey Consulting, and had held a post in the cabinet of E. Woerth, the Minister in charge of State Reform during 2004-05 and 2007-10, where he had conceived the role of this agency. The idea was to ‘create a hybrid entity combining private consultants and high-ranking civil servants [...] to generate transformations that civil servants can’t set up by themselves, as we always need outside appraisers and the support of either methodological or paradigmatic reasons to shake things up’ (DGME, 01).

This hybridization was a model of practice in DGME and also reflected how DGME Head Project Managers worked with Departmental Project Heads. The transfer of Lean management principles and practices was based on partnerships between the DGME and well-known consulting

firms such as Cap Gemini and Boston Consulting Group. In practice this meant that whenever the DGME ‘Consultancy Service’ – and especially its ‘Leverage’ service, which numbered about twenty people – supported a reorganization project for a Ministry, it placed one junior member on the ground (within the agency), whilst several senior members designed and monitored the project. Consultants were employed to work with a ministry to assist the implementation of Lean management. The dual culture of the DGME was considered the key for successful implementation. It is also worth noting that most of the former consultants recruited for this work had previous public or para-public service experience. Some of them had several members of their family working in French public services, and were already sensitive to ‘a public administrative culture’: ‘DGME project managers were on the same technical level as the consultants regarding Lean. They had an advantage, they came from the administration. That tends to reassure people. [Depending on the field] either it's more DGME, or it's more consultants. Some of them act as fuses, others as warnings’ (DGME, 01). Further, the activity of the DGME is directed to the implementation of concrete changes: ‘Our added value is the capacity of pragmatic know-how needed to carry out *the effective change management*, with a focus on obtaining concrete results’ (DGME, 02).

Within the RGPP, the Lean management became a means for the Ministry of Finance to which the DGME reported, to reassert its power over more specialized ministries (Bezes, 2009). For some ministries the introduction of Lean management reform was done in parallel to budget cuts. For the justice system Lean management was a way to bring about reform by means other than budget cuts. Yet the DGME’s power to effect change varied over time. It depended upon the political leadership of the Ministry to which it reported and on the strength of the national reform program. From 2007 to 2012, the Ministry of Finance, which included the Ministry for Budget, Civil Service and State Reform, led the reform process, ‘establishing a [new] link between budget savings and the reorganization process’ (Bezes, 2010: 775). Strong support from the French President and Prime Minister for the RGPP reform process highlighted the level of centralization and political control that was associated with such a change. This also conferred a central role on the DGME, providing it with legitimacy and adequate resources to assist in promoting

organizational change across the French civil administration. It enhanced the ability of the DGME to get Ministries and their decentralized departments to experiment with Lean management.

### **A multi-layered process to transpose Lean management**

Lean management is an *a posteriori* reconstruction of the Toyota production system, which was imported to the United States after 30 years of implementation in Japan. It has subsequently been developed into an international form of management knowledge (Womack and al., 1990). This method has spread from the manufacturing industrial sector to the service sector, and has now found its application in the public sector, due to strong commitment from practitioners (consultants, managers, etc.), scholars and high-ranking civil servants. In the 2000s Lean management ‘became a form of expertise that was prized by the major consultancies. [...] With the RGPP this method was used to rationalize administrative procedures’ (Bezes, 2012: 35-36). Lean management is based on a principle (progressively doing more with less) and a central method (mapping, reviewing and reorganizing of work processes) in relation to efficiency and quality objectives. This involves reducing costs by reducing staff, stock and delays.

There are three main observations about the way Lean management was conceived of and implemented in the French public sector.

First, the approach developed by the DGME followed four of the five principles of Lean management identified by Womack and Jones (1990). These principles are to be found in the presentation of Lean management made by one DGME interviewee:

The idea of Lean is to put ourselves in the position of the client [Principle 1], and not to think vertically in terms of each individual profession or service, but instead to say: ‘what happens from the moment when a case is received through to the issuing of the decision [...] It is a matter of mapping the process [Principle 2]. Then we look at the transit time and value added time for a stage, and see where the blockage is (visually, that corresponds to stocks in storage cabinets). Then we have a second workshop together to work out why there are stocks, and to draw up an action plan [Principles 3-4]. (DGME, 01)

Lean management was defined in the training documentation used by the DGME, as ‘an approach of continuous improvement of the processes, with the aim of eliminating waste and activities without added-value for the user, via participative procedures, and of transforming the way an organization solves problems that affect its functioning’ (SG MAP, 2014:2).<sup>4</sup> This definition outlines the main focus of Lean. It involved participation and problem solving tools to achieve continuous improvement, waste elimination, smooth-flowing work processes, and work process analysis from the perspective of the user.

Second, Lean management principles needed translating to help civil servants ‘make sense of [this new frame] in their own work settings’. Morris and Lancaster (2005:209) emphasize the idea that ‘translation involves selecting an idea, disembedding it from one [setting] and re-embedding it in others’. They lay stress on three types of translation: re-contextualizing, re-labeling, and the use of plots combining narratives and recipes. At the national level the introduction of Lean management involved the re-contextualizing and re-labeling of issues. Re-contextualizing focused on the principles deemed by the DGME as most appropriate for public sector units, as ‘the Lean approach is one way of trying to square the circle: resources are diminishing, the expectations of the public are rising, and civil servants are less and less satisfied’ (DGME, 02). Moreover, DGME professionals emphasized that Lean management was universally applicable and reflected a common sense approach to work practices. They had a practice of taking examples from daily life to illustrate their understanding, as following interviewee explains;

It would be a mistake to think of Lean is a technique from the private sector. It applies to everything! [...] When someone makes a cake and notices that an egg is rotten, they're not going to put it in the cake. It is the same thing with Lean. When you see that there is something clearly wrong in the way a case is put together, then you reject it immediately. (DGME, 01)

Re-labeling refers to the specific ways in which Lean management was translated at national and local levels for various Ministries. Indeed, Lean management was conceived of as a multi-

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<sup>4</sup> SG MAP, or the *Secrétariat Général à la Modernisation de l'Action Publique*, is the agency that superseded the DGME.

purpose instrument, to be adapted to the main issues tackled by a ministerial unit on the ground. In some cases, it was implemented together with major restructurings of a Ministry's regional units, resulting either in large staff cuts (as happened with the Ministry of Finance and Ministry of Defense) or in merging several units together. In other Ministries, it focused on reducing delays in service delivery.

A third observation is that to date, the implementation of Lean management has been variable across the French civil service. In a few cases things have not moved beyond isolated initiatives, even in fields where Lean management has spread at the international level such as in health services. By contrast, in the areas of Prefectures and National Defense Lean management has progressively been extended to new processes. Lean management was introduced into the French judicial system during the period 2009 to 2012 and it has had variable impact.

The contrast with adoption and impact of Lean management practices depends on the characteristics of the policy field including the professional groups involved, and political factors. In 2012 the election of a new President and a new Parliamentary majority resulted in changes in Ministers and administrative reforms such as the RGPP. Yet the impact of the national context has differed from one Ministry to another. Sector-specific and professional factors have played a great role in influencing the adoption of Lean management spirit and practices. This includes the role and power of the internal hierarchy in the concerned Ministry, the characteristics of the work processes involved (intellectual vs. administrative processes), the coherence of professional cultures and their openness to managerial approaches, the type of management practices already applied and the priorities of the Ministries and departments. The evidence suggests that the stronger the hierarchy and the closer it was to an engineering culture, the easier it has been to implement Lean management. One interviewee noted,

Not all fields are favorable to Lean. That is what I take from my experience at the DGME. When you work in a disciplined ministry with engineers then it works very well. In other ministries, staffed with literature or philosophy postgraduates, then it is problematic [...] In prefectures there is a culture of efficiency, which is not at all the case in the justice system

[where] it is not really accepted. [... In some courts] you're dealing with magistrates who are skeptical, and you've got certain [left-wing trade union] magistrates out to trip you up. Then you can be sure it's all going to go belly up. (DGME, 01)

The personality, experience, skills and relative standing and authority of the actors involved in the transfer (consultants, administrative and legal high-ranking civil servants), as well as the local weight of trade unions all also had an influence on the extent to which Lean management spirit and practices were adopted.

### **Promoting a new conception of policy change within the administration via transfer**

DGME staff and their consultants were the main transfer agents promoting a new conceptualization of policy change within the public service. In contrast to the traditional top-down ways of reforming administration, the idea was to bring about change 'from within' through collective discussion on the ground as one interviewee noted, 'Lean is not some circular sent out from central administration explaining how to work properly. Each service is granted extensive latitude to see for itself how its processes function, and to suggest solutions' (DGME, 01).

As such, Lean management may be viewed as a "soft way of rationalizing" since it draws on the actors' autonomy. Yet at the same time, DGME staff insist that changes needed to be brutal if they were to be effective: 'Modernization always involves a bit of violence. [...] Every time I see him one head of department at the Interior Ministry, he says: "you forcibly abused us, you made us do Lean without our consent. We're consenting now, and want more of it"' (01).

The progression of policy change relied on the adaptation of new tools and instruments. Although standard in terms of international practice, these tools were considered innovative in the French administration: 'The aim of Lean is not to do more, but to do things differently than before [...] If we give you an ax in place of a pocket-knife to cut down a tree, you are going faster! Lean is an ax on the problems' (DGME, 02).

DGME members were also concerned that the policy and practice changes they facilitated would modify what state agents value in their work and that such a cognitive change would have a lasting impact. This is reflected in the following quote:

It's important to look at the impact of Lean in terms of "What makes me proud about my job? What is this change asking me to give up on or reposition in terms of this pride?" It is a very effective driver for change. It's more subtle, but it has a strong impact. (DGME, 02)

The process for transferring Lean management thinking and practices across ministries was rooted in the idea that Lean management acts as an instrument for progressive policy change that would deliver long-term transformative results (what Streeck and Thelen 2005:9 call 'gradual transformation'). Lean interventions were conceived of as a way of 'learning-by-doing' whereby new logics of action were to become embedded with longer-standing ones.

The above discussion has presented the main features of Lean management and outlined the general process for its introduction throughout the French bureaucracy. Discussion will now move to examine the implementation of Lean management into the Ministry of Justice which commenced from 2009. This case highlights the competing interpretations of how new policy methods and rationale are transferred into a professional organizational setting.

### **Lean management designed for the French judicial system**

This section examines adaptation processes and the three strategies for change that were implemented in the Ministry of Justice with the introduction of Lean management. Evidence is also provided on the variable impact of Lean management in different courts. Such context-tracing analysis at national and local levels shows how much the very concrete ways the policy transfer in not only conceived, but implemented in practice influence its re-appropriation by the legal professionals. This part also shows how worthy it is to combine a policy transfer perspective with an analysis of organizational change to assess the effectivity of the transfer.

## **The subsequent translation processes**

In 2009 and 2010 experiments were conducted in two departments of the Ministry of Justice in partnership with the DGME. The first concerned the judicial system and focused on delays in court proceedings, while the second concerned the Prison Clerks' Office and was aimed at reducing the number of mistakes made in prisoner files. This second project was based on the private sector concept of "right first-time production". Despite promising results, the Prison Division of the Ministry of Justice did not continue. However, the Judicial Services Division (DSJ), which handles court management, applied Lean management review processes to civil affairs in the Courts of Appeal (2009 to 2012), to criminal affairs (2011), to the Legal Aid offices (2011), and for guardianship (2012). The DSJ generalized the implementation of Lean management to the more numerous types of civil litigation. This included cases relating to social, economic, and family law. The agreement of Heads of Court, and courts with long-running backlogs of cases were the two main criteria applied when selecting the courts to which Lean management would be introduced. By December 2012, there were 33 courts (out of 197 main courts) that had been targeted by the Lean management program.

Lean management then went through another multi-layered process of transposition to adapt the presentation and the implementation of lean management to the judiciary. This was presented as a collaborative reflection on work practices and organization as the following extract from information material suggests: "The "DSJ Lean" consist in reflecting on new working methods, with magistrates and clerks of the courts, resulting in improving both the service given to litigants and the working conditions of agents" (DSJ Brochure 2011: 1). The DSJ also presented efficiency goals as a means for cutting wasted time, enabling clerks and magistrates to focus on their "core activities" (especially judging). Tailored implementation plans for each court were to be developed.

The DSJ also focused on legally based arguments, especially on the fact that a "reasonable delay" should be guaranteed in accordance to the legal tenets of "fair justice". For instance, it was noted that major differences in judicial delivery times resulted in the unequal treatment of plaintiffs (between 7 to 24 months for the same type of litigation depending upon the court). Under the Lean

management review process the idea was also to pay greater attention to plaintiffs' needs when working on a case. This is explained by one interviewee: 'The first point is to put ourselves in the position of the user, and not in the position of a judge with a whole pile of cases on his/her desk, whilst bearing in mind that justice does take time' (DGME, 01).

To help facilitate the transfer of Lean management practices into the Ministry of Justice the DGME met the costs of the review process and also undertook not to cut any jobs in contrast with the experience of other Ministries. Thus during the Lean management review process (three to four days a week over a sixteen-week period), consultants and DGME project managers represented additional staff for DSJ. These additional resources helped improve the ability of the judicial system to modernize its working methods. In 2011 there was however, evidence of resistance to the Lean management. In response the DGME engaged a consultant specializing in the sociology of organized action. This helped identify points of resistance (which were primarily cultural) and possible means to overcome them. How this occurred is outlined below by an interviewee:

The sociological diagnosis is based on a dozen questions that do not ask directly: what are you willing to do to accept a Lean project? The aim is to understand the expectations and problems of these people and how they hierarchize them [...] Such a diagnosis enables us to reorient our discourse and the way we presented the project. For instance, for the Prison Clerks' Office, the diagnosis told us that if we focused the presentation of Lean on security issues, it would be accepted (DGME, 01).

To facilitate the acceptance of such a transfer, the 'DSJ Lean' focused on a combination of three generic change strategies:

*"Engineering* interventions focus on analyzing and then redesigning work processes to improve the speed and quality of production. [...] *Teaching* refers to guided learning interventions in which participants are actively involved in their own 're-education' through changes in their fundamental beliefs [...] lead[ing] to changed behavior. [...] *Socializing* refers to changing behaviors among participants that lead to changed beliefs and organizational culture 'in a cooperative mode'" (Huy, 2001: 609).

In the French judicial system the main stress was placed on engineering and socializing-type change. First, working groups with representatives of clerks and magistrates of different ranks and with different functions precisely mapped various work processes - for example, the precise steps following a decision to refer a case to the Court of Appeal through to the delivery of the text of the ruling. Large workflow diagrams summarized information about work procedures, the actors involved, and the length of each stage that was actually timed with a stopwatch. Working groups also focused on the recurrent daily difficulties, as well as on the ways to remedy them. The idea was that everybody improve their everyday working life. This management approach may be seen as a form of employee empowerment (Oliver *et al.* 1996), as the following court judge observed, even though he was recalcitrant about Lean management,

It's very good to stop and look at what is going on. With Lean, the whole mechanics need to be examined from A to Z to see where the blockages are. Once we have unblocked the system, it will already be a whole lot better and everybody will be happy - especially those who make the system function. (03)

The working groups were also considered to be a source of socializing change through the collective reflection on work processes and practices, and the dialogue between professional groups and individual persons. Socializing change was more apparent for the professionals who were most involved. This included staff from the DSJ units, the upper echelons of certain courts, as well as staff from courts that had readily integrated Lean management processes. Guided learning took place via the general presentation of Lean management principles to the clerks and magistrates when implementation was to commence in a unit. There was also an element of indirect policy transfer throughout the entire process as magistrates and clerks observed the methods and know-how that consultants drew on to implement organizational and work practice change. In-depth management teaching was reserved for those working in the DSJ and Heads of Court. This involved a half-day introductory course on Lean management, and a five-day course on Lean management and change management in organizations more generally. By doing this DGME members and consultants aimed to alter the core values of civil servants. As one project manager noted, 'we have

managed to agree on the fact that reducing delays without altering the quality of the decision would improve the quality of justice' (DGME, 2). In this case study the evidence shows that the Lean management process helped in some courts to reshape a new professional and administrative culture.

### **Five main changes**

To show to what extent the Lean approach was effective in modifying also work practices, one has to focus on the concrete outcomes of such a transfer.

With few exceptions, the courts that implemented Lean management were able to reduce the number of cases pending by between 10 and 15 percent, without employing any additional staff (DSJ, 2011). This was achieved with the implementation of five main changes. Agents were encouraged to take a more active role in preventing delays by interacting with stakeholders including plaintiffs, defendants, and their lawyers. The principal change related to the *mise en état* (once a party has decided to appear, this is the period during which the parties and their legal representatives can present new evidence and their conclusions) and the *audiencement* (the choice of a date for the hearing). Clerks were asked to process non-admissible cases on the same day they were received. Except in very complex cases, the hearing date was given immediately.

The second means of improvement was the distinction introduced between “very short”, “short”, and “long” processing times depending on the degree of urgency, the delays prescribed by the Code of Civil Procedure, the priorities defined by each adjudicatory Chamber, and the complexity of the case. Third, specific effort was directed towards improving partnerships with other legal professionals. The main method employed to help prevent cases being postponed was to draw up an official but non-binding agreement with lawyers, as well as involving lawyers in working groups to facilitate the work of the Office for Legal Aid. This Office examines requests filed by litigants for the state to cover the costs associated with their court case. In return, in some courts magistrates have made a commitment to standardize working procedures.

A fourth change concerned the effort that was made to improve visual management tools. This involved assessing the scale and the age of backlog cases and using colors to designate the

year of the appeal. The color coding system meant that with files being stored on shelves, problems could be seen as soon as they appeared. Finally a fifth change introduced was aimed at reducing wasted time. This involved actions that ranged from training on how to use software; attempts to cut down on interruptions by the public, the provision of faster answers to questions from lawyers and litigants, to improving signposting in the courts and re-housing departments in places with easier public access.

Two major changes were introduced at the same time that had a strong impact on delays. This involved increasing the number of monthly hearings and cases. In certain courts where Lean management had a great impact on delays, new clerks and magistrates who had just arrived from larger courts where they were used to working at more intense rhythms, were prepared to drive through change in their new court. In addition, legal reforms were introduced between 2010 and 2012 (especially the “décrets Magendi” and the implementation of the “paperless civil justice”) that impacted on the obligation of lawyers and litigants to respect strict delays set out by the new laws.

While the above changes had a measurable impact on efficiency across the targeted courts, consideration should also be given to the potential influence of the “Mayo effect”. Here the fact that magistrates and clerks were the subject of a new approach to organizational change may have been in itself effective in motivating commitment to improve and change their work practices.

### **The variable benefits from transfer**

The following discussion will review how Lean management was experienced at different levels in the bureaucratic hierarchy. The process of transfer resulted in variable gains and losses for the different segments of the concerned professional groups.

#### ***Lean management as a cooperative attempt at introspection***

There was general unanimity amongst those interviewed for this research that Lean management helped generate a cooperative effort in standing back critically reviewing daily activity. The process also improved internal communication and relationships within and between the legal professions. Lean management created opportunities to make people more aware of cross-

functional interdependence and to rethink work along these lines. The discussion of work practices moved on occasions beyond the traditional hierarchy between magistrates and clerks. There was a better consideration for clerks' expectations. The magistrate acting as the national Lean management project manager referred to "a new social contract" in some courts where the experience of Lean management had profoundly altered the relationships between professional groups. However, the evidence from this analysis suggests that despite the mature introspection of justice staff there was a general failure to appreciate the point of view of the waiting "user". This was a matter rarely raised by magistrates and clerks in the interviews.

***A made-to-measure, change management instrument.***

Heads of Court generally expressed a more positive impression of Lean management than other legal professionals. This was because Lean management was only introduced where Heads of Court agreed and the gains of organizational change achieved through the process outweighed the costs. Consultants provided Heads of Court with decision support tools to measure and assess performance, thus enhancing the means at their disposal to ensure magistrate accountability. Consultants came up with scenarios and suggestions to reduce backlogs. Furthermore, Lean management implementation made it possible to introduce changes to work practices and organizational arrangements that Heads of Court and some Presidents of Chamber were convinced they would not have otherwise been able to implement. This is reflected in the following comment of an enthusiastic Deputy Head judge;

Consultants brought their dynamism and their instruments. They made it possible to say what was needed and had enough tenacity to deliver solutions. [...] This study, assessing the workload and how to improve accompanied the court reform supported by the first president, since there were three hypotheses in discussions in the action plan [...] Another Chamber was set up, with negotiations about the number of rulings to be issued, practices... It really helped us reorganize things. (04)

In several courts, the Lean management audits provided evidence to the Ministry of Justice that case backlogs were also indicative of understaffing. For certain magistrates the gains achieved under

Lean management through the introduction of policies that effectively reduced case delays gave them a reputation as change entrepreneurs and this strengthened their professional career progress.

In order to avoid generating staff hostility, heads of Court often acted very carefully when implementing Lean management changes, as one Lean project magistrate in a court noted,

with the first president we didn't want to put any backs up. We were treading a fine line. There were two magistrates' unions against it, including the largest one. On top of that, we were getting increases of 30% [of the number of the cases processed]! Some colleagues thought it was scandalous (05).

In several courts Lean management was interpreted as a tool that enabled the Heads of Court to impose their views. However, in these tensed situations DGME, consultants provided advice that steered reform towards the objectives of the program. These instances reveal however, the general struggles that occur within professional organizations as occupational or professional groups seek to exercise control over resources and enhance their position (Kirkpatrick, Dent and Kragh-Jespersen 2011: 491).

***Lean as an intrusive and time-consuming procedure.***

For other judges and staff within the judicial system, the establishment of working groups and individual interviews added to the usual workload over several months. Disappointment ran high when after a period of activity people got the impression that the new approach did not deliver concrete changes. This impression is partly due to the fact that changes related to practices that legal professionals viewed as minor. In some instances, Lean management was perceived as intrusive, especially as the process mapping together with the observation and measurement procedures was interpreted by some as a way of exerting control. Lean management review processes resulted in greater transparency into how work load flows and how this was distributed and managed by individuals. Some consultants saw this information as justification for significantly restructuring the way a court or unit functioned. In addition to this, attempts to define common working practices through the Lean management process gave rise to fear amongst judicial staff

about the introduction of compulsory work standards. One court magistrate, yet sincerely enthusiastic about Lean Management, explains these concerns:

We refused to let the consultants intervene in areas at the heart of what a judge does (some courts have more hearings than others, and the number of cases processed within each hearing varied). Otherwise, they would have harmonized everything. We were afraid of a national standard that a relatively well provided court could have worked to, but not other courts. There were issues at stake in terms of the independence of the judiciary. (05)

Lean management had contrasting effects on working conditions according to the courts. In some units, multi-skilling was reintroduced so that each person could be replaced in the event of absence. In other courts, specialization was introduced without any pre-established division of labor. Further, expressing problems sometimes resulted in tension amongst staff: 'It created tensions between the clerks and head clerks. They asked: "what isn't working?" We answered that certain frameworks needed revising. The head clerk who was in charge of it took this very badly. It's good to say things, but it would have been preferable to discuss things between us' (clerk, 06).

It is worth analyzing the variable and contrasting experience with Lean management against some of the major features of NPM, and in particular: the reinforcement of control over front-line agents and professionals through the systematization of quantitative activity indicators, the greater specification of standards of practices and procedures on one hand; and the contrasting objective of seeking to stimulate local initiatives and self-commitment to foster change within delegated work units on the other hand (Newman, 2001). Studying policy transfer involves taking into account both what Lean management and more generally what NMP in all its ambiguities aims to achieve in organizational settings, and the interplay of interests that determine the extent to which this method is deemed appropriate by professionals.

### **Obstacles to the re-embedding process**

Resistances in some courts and the strong opposition from unions from 2011 onwards suggested there was a growing counter-interpretation of Lean management and its application in the

judicial system. After the change of government and President in 2012, the new program of work process analysis could be interpreted as a counter-translation, considerably removed from NPM-inspired methods and tools. How this occurred is explained below.

### **Resistance in the courts**

*A systematic counter-argument.* Court resistance to Lean management was based on a counter-argument put forward by legal professionals, especially the magistrates' unions, which challenged each feature of the reform process promoted by the DGME and the DSJ. An initial criticism concerned the general remoteness and unsuited nature of a productivity-focused instrument that was transferred from the private sector of Japan. One Deputy Head judge summarized this as follows;

A certain number of die-hard champions of principle reckon that these are Japanese methods, hence necessarily productivist, and therefore opposed to all considerations of quality necessary in the justice system. It's downright ideological! Other judges are very conventional and signed up fully to the sect of Lean! They were radiantly happy about this opportunity to think about their work, about how to progress. (04)

And another court judge stated;

Consultants wanted to analyze things down to the last minute. We told them that this was neither a factory, nor a production line. They reasoned in minutes, in seconds even, whereas we reason in months, or in half-years. If we manage to cut things down by a week, that's already pretty good! (05)

This counter-interpretation re-labeled Lean management from a political perspective. Lean management was presented as typical of the 'neo-liberal' spirit behind the RGPP. This was personified in the catch cry 'doing more and better with less'. While a leitmotiv of the RGPP was the non-replacement of one out of two civil servants taking retirement, the DSJ and Heads of Court were not able to dismiss doubts about staff cutbacks. Lean management was thus perceived as

another instrument of the Budget Department. The partnership with the DGME and consultant groups was also contested. There was concern with the value of investment in the Lean management process. Records show that between 2007 and 2011 €111 million were spent across all Ministries on contracts for auditing services and modernisation studies.

Lean management was also criticized for the specific effects it produced due to its own particular logic. It made for a de-specification of the judicial system by using standard managerial instruments that viewed the judiciary as a production organization rather than a political institution. Lean management reforms contributed to the growth of managerialism amongst the judiciary by promoting efficiency, productivity, and consumerism (Raine and Willson, 1997), as citizens are no longer perceived as plaintiffs, but as clients. This difference in the conceptual understanding of legal professionals helps explain the tension generated by Lean management reforms.

The counter-argument also questioned the impact on working conditions since Lean management was seen to drive greater work intensification without any adjustments to compensation. From a Marxist perspective, the participatory approach under Lean management caused employees to “voluntarily” contribute to their own exploitation by enlisting them to propose ways for improving efficiency. Finally, opponents to Lean management referred to legal arguments. For instance, one Court of Appeal refused to allow private consultants to implement Lean management because magistrates had to rule on cases regarding the implementation of Lean management by this particular consulting firm, as trade unions deemed the resultant changes to be a source of occupational health hazards.

***‘Jurisdictional conflicts’***. In addition to the above counter argument, a major source of opposition to Lean management arose from the court's refusal that a managerial logic should prevail over the law-oriented culture. Such resistance is indicative of inter- and intra-professional rivalry, what Abbott (1988) refers to as jurisdictional conflicts.

A primary concern of the magistrates most involved in the transfer process during the initial stages of Lean management reforms was clearly to protect the ‘core activities’ of a magistrate from any kind of intervention; in particular, the judge’s work on a case and the drawing up of a ruling.

Initially magistrates refused to allow consultants to observe this part of their work and refused to define quality criteria for their work. This refusal illustrates their professional desire to retain their power and unilateral control over the evaluation of their work. One DGME interviewee noted the tension between the efficiency objectives of Lean management and the autonomy of judges:

Judges are free to organize their own schedule, and they are very attached to this. They work a lot from home. But beyond this major task of expert appraisal, loads of things are done as a team and synchronizing all those involved along this chain meant that changes were introduced which impacted on their autonomy in terms of organization. (DGME, 02)

Criticisms directed towards Lean management should be judged in the light of this concern. The consultants' managerial and methodological skills and their commitment to work were recognized unanimously, however their lack of knowledge of legal matters was systematically ridiculed, since on occasions they suggested changes contrary to the law. As one recalcitrant judge noted:

Consultants didn't know the fundamental principles of a procedure. *They got their training from us. Then they put forward management techniques. Some of which were intelligent – such as communication between the clerk and judges, something they clearly showed us was lacking, but we already knew that. Other things were stupid - for instance, solutions which had the merit of managing flows, but which ran contrary to the code of civil procedure.* The consultants rapidly picked up on this, as they were intelligent people [...]. We would rather have had people with *professional legal training*. [Consultants] *did not have the necessary relevant expertise to arrive at what I, as a judge, view as relevant solutions* (03).

By contrast, in some of the receptive courts, certain consultants impressed magistrates and clerks with their ability to quickly grasp procedural constraints. Conversely, the sheer triviality of certain solutions gave rise to constant taunts (such as emphasizing the visual management of the files when efforts were being focused on working on computers). These taunts can be interpreted as a way of disqualifying the consultants' ability to improve the way the judicial system functioned, while DGME staff wondered why these changes were not yet implemented if they were so obvious.

There were occasions where even some of the most receptive clerks and magistrates referred

to certain consultants as “cowboys” or “bulls in a china shop”. This would derive from instances, for example, where a consultant asked a Head of Appeal Court to be more demanding with magistrates and allocate them explicit quantitative targets. Advising Heads of Court what their relations should be with the magistracy in their court (a superior rather *primus inter pares*) was unanimously considered as encroaching on the consultant’s prerogatives.

The main argument put forward by magistrates to preserve their professional autonomy related to the constitutional principle of jurisdictional independence. Yet as one DGME project manager commented, this was also a source of frustration:

Some judges have an idea of jurisdictional autonomy which goes a bit further than is acceptable. Judges are independent in arriving at their decision, that's laid down by the constitution. But then, if you tell him to paste and copy the conclusions of the lower court, the guy says: "*no, that is a matter of jurisdictional independence*". (DGME, 01)

Yet the dividing line is far from clear-cut between those aspects of their activity which are organizational, and those which should be free of any intervention. Nevertheless, these fields of resistance reveal the difficulty consultants had in creating a shared mindset for Lean management.

### **Varying impacts and appraisals**

The evidence shows that the implementation of Lean management had both a diverse and varying impact on the courts and professional groups. Some were not wholeheartedly committed, to the Lean management reform process due to their general disagreement with the principles behind the method (increasing productivity) or because of their concerns with the context within which Lean management was being rolled out (the RGPP). The personality and skills of each consultant also had a strong impact on their ability to convince people to place their faith in the Lean management approach. The professional experience of judicial staff with processes of organizational change and their position within the hierarchy also influenced their receptiveness to Lean management. Finally, the impact of Lean management was subject to the success of any prior

improvements that may have been implemented which then limited the productivity gains that lean management reforms could effectively realize.

### **The program VIA-justice, a counter-translation in practices?**

Despite such resistances, new extensions of Lean were forecasted. However, in 2012, a new President and Parliament majority were elected, and a new global program of administrative reform was launched. While the Ministry of the Interior and Ministry of Defense continue to support Lean management programs, the judiciary has seen the introduction of a new program called “VIA-Justice”. This is different to the Lean management program in the areas of expertise, content and the type of change being pursued. A principal difference lies in the refusal to hire private consultants and the subsequent reliance on organizational expertise from within the DSJ:

The alternative to capillary deployment [as in the prefectures with local “change agents”] was a central team working like a fire brigade to convey coherent methodologies and objectives and to do projects [...] We told them they could do the DGME at the Ministry of Justice, and have a team of five people with one magistrate, one or two head clerks, and two or three ex-consultants with five years Lean experience. A hybrid set-up. (DGME, 01)

However, contrary to the suggestions of the DGME that a majority of experienced former consultants be recruited, the Via-justice team (four legal professionals, plus a former member of the DGME) to help court reorganization was selected on the basis of their experience as legal professionals. The head of the team refused to focus on delays and case flow management, preferring to support colleagues encountering a range of difficulties in their work. This attitude has received criticism from some members of the SG MAP who ironically describe the approach as ‘cuddle-therapy’. This is explained in the following quote:

The key principle in modernizing administrations is to do it with exogenous elements, with people whose hands aren’t tied and who can shake things up big time. You’re bound to be a bit critical of traditions and ways of doing things. The Lean project manager from 2009 to 2011 was not afraid of alienating the unions, whereas the Via-Justice manager was all ‘snuggly’.  
[...] There is a marginal degree [of change], that you can’t compare to Lean. There is nothing

holding out the prospect of reducing waits by thirty percent, no measurement-based approach!

(DGME, 01)

The head of the Via-Justice team expressed a strong reluctance to the use of management tools such as working groups and mapping of work processes. And their recommendations were less directive and prescriptive of how heads of courts should progress the implementation of change.

Despite these differences in style and function, the VIA-justice program still focuses on improving the ways a court functions through “an external eye”. This involves the diagnosis of operational difficulties revealed through individual and collective interviews, the analysis of causes and the proposal of detailed plans for action. Furthermore, the VIA-justice team retained two “best practices” guides developed by drawing on the Lean management methodology. There is thus a hybrid model at work that draws on some of the principles and methods of the Lean management approach, restores some control over the analysis of work practices by the judicial profession and concurrently limits the use of NPM-inspired instruments.

Looking closely at each stage of the transfer shows if and how a policy instrument is appropriated in each location. It also demonstrates that such appropriation can differ across time and place from what may have originally been intended. Second, this case reminds us that policy learning may also result in ‘negative lessons’, the crystallization of ‘what policy paths [agents] do not wish to follow’ (Dunlop, 2009: 307).

## **Conclusion**

This chapter leads to five main conclusions regarding policy transfer. First, the multi-layered process of translations is a key feature of policy transfer. Focusing on empirically-grounded micro-processes allows for a contextualized analysis that takes into account the diversity of the actors engaged in translation as well as the uncertainty of the process in which these actors perform (Stone, 2012:489). This chapter provides evidence that policy transfer is not a linear imposition of norms (here initially international and private-oriented ones), but an interactive and dynamic process which takes into account both national and local factors. Bottom-up processes should not be

underestimated, even if the general process is being pushed by a national agency, as identical external incentives can be followed by various outcomes. Therefore transfer analysis should consider the historical development of the process, possible alterations in content and in the meaning of what is transferred, as well as the counter-translations proposed by various agents. This case study shows that during processes of resistance reinterpretations occur that subsequently impact on the implementation and the success of the transfer process.

Second, the way NPM-inspired principles and instruments are institutionalized during and after the transfer (the types of knowledge, positions of experts, state support and transfer means) interacts with the characteristics of the context, be these administrative, political, or professional. During such a process of adaptation and transfer, the greater the distance between the rationale of the transferred policy instrument, and the professional and administrative recipient setting, the more the need for adjustment and translation become evident. This study shows that policy transfers from the private sector to the public sector are best facilitated by transfer agents who have both the experience and understanding of the specificity of the concerned policy field. An affinity with the policy field becomes increasingly important if the professional culture of the organization adopting new policy is reluctant *a priori* to support the implementation of change, and if the legitimacy of hierarchy is not strong enough.

Third, the case study presented in this chapter highlights the importance of understanding the sociological characteristics of the transferring actors and the recipients. This provides insights into their motives and practices and how they might benefit or not from the transfer process. This brings out their degree of autonomy regarding the transfer, and their ability (or inability) to refuse certain features of the contested policy transfer. The fact that diverging points of view may co-exist within the transferring or the recipient organizations (such as “courts” or “professional groups”) shows the importance of including both positive and negative cases if we are to better understand the micro-dynamics of transfer within a single policy field. This methodological choice also highlights how the actual way in which transferred policy is implemented is a crucial factor in whether or not it is successfully appropriated by actors.

Finally, this chapter has explored the policy transfer of a management instrument in a public sector context with overlapping authorities and professional competencies. NPM transfer entrepreneurs, such as private sector consultants, have been observed to have three main areas of impact on professions during transfer processes (see also Bezes, Demaziere and Le Bianic 2012). They introduce external practices, methods and rationales for organizing and controlling work, thereby limiting the autonomy and the discretionary power of professionals. Second, they explicitly seek to transform professional values, by promoting the idea that efficiency is a component of quality. Finally, their interventions may lead to a shift in the balance of power *between* professional groups, as well as *within* the same group since some top professionals seem to draw greater benefits from this socializing-type change.

For all these reasons, policy transfer studies should include detailed analysis of the outcomes for professional practices, the organizational setting, and the institutional frame. This is necessary in order to highlight the ability of the local agents to exert influence over the concrete process of policy transfer, and to attest (or not) to the reality and depth of the changes introduced. Adopting a political sociology of instrumentation makes it possible to study the political issues and player games within the transfer, without neglecting the technical, professional and organizational dimensions of policy transfer.

## References

- Abbott, Andrew (1988), *The System of Professions*, Chicago: University of Chicago Press.
- Berkowitz, Daniel, Katharina Pistor, and Jean-François Richard (2003), “The Transplant Effect”, *The American Journal of Comparative Law*, **51** (1), 163-203.
- Bezes, Philippe (2009), *Réinventer l’Etat. Les réformes de l’administration française*, Paris: PUF.
- Bezes, Philippe (2010), “Morphologie de la RGPP”, *Revue française d’administration publique*, **4** (136), 775-802.
- Bezes, Philippe (2012), “Etat, experts et savoirs néo-managériaux”, *Actes de la recherche en sciences sociales*, 193 (3), 16-37.

Bezes, Philippe, Didier Demazière and Thomas Le Bianic (2012), “New Public Management and Professions in the Public Administration?”, *Sociologie du travail*, 54, e1–e52.

Börzel, Tanja A. and Thomas Risse (2012), “Western Europeanisation meets diffusion: Exploring new territory”, *West European Politics*, 35, 192-207.

Bruno, Isabelle, and Emmanuel Didier (2013), *Benchmarking. L'État sous pression statistique*, Paris: La Découverte.

Callon, Michel (1999), “Some elements of a Sociology of Translation”, in Mario Biagioli (ed.), *The Science Studies Reader*, New York: Routledge, pp.679-83.

Delpuech, Thierry (2009), “Comprendre la circulation internationale des solutions d'action publique“, *Critique internationale*, 43 (2), 153-165.

Delpuech, Thierry, and Margarita Vassileva (2009), « Contribution à une sociologie politique des entrepreneurs internationaux de réformes judiciaires », *Année Sociologique*, 59 (2), 371-402.

Dezalay, Yves, and Bryant G. Garth (2002), *The Internationalization of Palace Wars*, Chicago: Chicago University Press.

Di Maggio Paul J., and Walter W. Powell (2001), “The Iron Cage Revisited”, In Walter W. Powell and Paul J. Di Maggio (eds.), *The New Institutionalism in Organizational Analysis*, Chicago: University of Chicago Press, pp.63-84.

DSJ (2011), « Le programme Lean DSJ est mené par les juridictions pour améliorer le service rendu aux justiciables et les conditions de travail », brochure of 4 pages.

Dumoulin, Laurence, and Thierry Delpuech (1997), « La justice : émergence d'une rhétorique de l'usager », in Philippe Warin (ed.), *Quelle modernisation des services publics ? Les usagers au cœur des réformes*, Paris: La Découverte, pp.103-29.

Dunlop, Claire (2009), “Policy transfer as learning”, *Policy studies*, 30 (3), 289-311.

Hood, Christopher (1983), *The Tools of Government*, Macmillan.

Hood, Christopher (1995), “The ‘new public management’ in the 1980s”, *Accounting, Organizations and Society*, 20 (2-3), 93-109.

Huy, Quy Nguyen (2001), "Time, temporal capability and planned change", *Academy of Management Review*, 26, 601–623.

Kingdon John W. (1995), *Agenda, Alternatives and Public Policy*, Boston: Little Brown & Co.

Kirkpatrick, Ian, Mike Dent, and Peter Kragh Jespersen (2011), "The contested terrain of hospital management." *Current Sociology*, 59 (4), 489-506.

Lascoumes, Pierre, and Patrick Le Galès (2007), "Understanding Public Policy through its Instruments", *Governance*, 1, 1-21.

Lodge, Martin (2005), "The Importance of Being Modern: International Benchmarking and National Regulatory Innovation", *Journal of European Public Policy*, 12 (4), 649-67.

Lowi, Theodore J. (1985), "The State in Politics", in R. G. Noll (ed.), *Regulatory Policy and The Social Sciences*, Berkeley: University of California Press.

Meyer, John W., and Brian Rowan (2001), "Institutionalized Organizations", In Walter W. Powell and Paul J. Di Maggio (eds.), *The New Institutionalism in Organizational Analysis*, Chicago: University of Chicago Press, pp.41-62.

Mintzberg, Henry (1993), *Structure in Five*, New York: Prentice Hall.

Morris, Timothy, and Zoë Lancaster (2005), "Translating Management Ideas", *Organization Studies*, 27, 207-233.

Newman, Janet (2001), *Modernising Governance*. Sage, London.

Oliver, Nick, Rick Delbridge, and James Lowe (1996), "Lean production practices", *British Journal of Management*, 7, 29-44.

Pollitt, Christopher, and Geert Bouckaert (2011), *Public Management Reforms*, Oxford: Oxford University Press.

Raine John W., and Michael J. Willson (1997), "Beyond Managerialism in Criminal Justice", *The Howard Journal of Criminal Justice*, 36 (1), 80-95.

Saint-Martin, Denis (2000), *Building the New Managerialist State*. Oxford: Oxford University Press.

Vigour (2017), *Policy Transfer Book*

SG MAP (2014), “Introduction au Lean dans l’administration française”, training document, March, 60 p.

Stone, Diane (2012), “Transfer and Translation of Policy”, *Policy Studies*, 33 (6), 483-499.

Streeck, Wolfgang, and Kathleen Thelen (2005), *Beyond Continuity*, Oxford: Oxford University Press.

Vigour, Cécile (2014), “Veto Players and Interest Groups in Lawmaking”, *Comparative Political Studies* 47, 1891-1918.

Vigour, Cécile (2006), « Justice: l’introduction d’une rationalité managériale comme euphémisation du politique », *Droit et société*, 63-64, 425-455.

Womack, James P., Daniel T. Jones, and Daniel Roos (1990), *The Machine that Changed the World*, New York: Rawson Associates.