

# **When do institutional transfers work? The relation between institutions, culture and the transplant effect: the case of Bornu in north-eastern Nigeria.**

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**Abstract:** Most economists agree that institutions are important for economic development, but little is known of why institutional transplants have been largely disappointing. Berkowitz et al. (2001) have argued that because of what they call the transplant effect, imported law lacks effectiveness when confronted with local legal norms. Successful adaptation of the imported institutions seems to mitigate the transplant effect and explain some of the variations of its effect, but comprehensive qualitative evidence has yet to be provided.

This paper investigates the transplant effect on the Kanuri of Bornu, a larger ethnic group in northeastern Nigeria. Institutions transferred during colonial rule and the early years of independence have been largely ineffective in Bornu. Why did the Kanuri suffer from a transplant effect, while the Tswana – similar in size and ethnic homogeneity - did not?

The paper uses new institutional economics as a theoretical framework to discuss the transplant effect. Although contextual in nature, the findings demonstrate the necessity of cultural adaptation of imported institutions. In the case of the Bornu, the lack of an educated bureaucratic class and strong political leadership around independence as well as generally low levels of education and urbanization seemed to have contributed to the transplant effect.

## 1. Introduction

Institutional economists have long argued that institutions matter for long-term economic growth (North 1990, Platteau 2000). Over the last years influential empirical literature has supported this argument and indicated that institutions trump other factors such as geography or trade in explaining economic growth (Acemoglu et al. 2001b, Rodrik et al. 2004, Knack and Keefer 1995, critically Chang 2011). With the question *that* institutions matter for economic growth settled the question of *how* a country can build the necessary institutional framework for sustainable economic development has become an important issue.

The question of how foreign institutions can be successfully transferred is rather old and has enjoyed the attention of scholars since the 19<sup>th</sup> century (Cousyoudjian 2012). From the 20<sup>th</sup> century on, research of institutional transfer<sup>1</sup> has covered various periods of human history. During industrialization, continental European countries famously aimed to reduce their relative economic backwardness towards the United Kingdom (Gerschenkron 1966). More recently, the transition of former socialist countries has provided another, more recent period of intensified institutional transfer, which has been discussed in literature (Pejovich 2003, Pistor et al. 2000). The colonial era and the early years of independence is another period of intensive - yet involuntary - institutional transfer. Whereas there is rich literature on the relation between institutions, colonization economic development (Acemoglu et al. 2004, Engerman and Sokoloff 2002), literature on institutional transfer during colonization and early years of independence is scarce. Acemoglu et al. (2001b) have argued that the mortality rate of early European settlers in former colonies had an impact on the type of institutions the established. In the field of country studies, Botswana has been praised for the quality of its pre-colonial institutions (based in Tswana culture and tradition) which are found compatible with modern institutions (see for example Robinson 2009, Lange 2009, Acemoglu et al 2001). Recently the transfer of institutions in Indonesia, which has also managed impressive economic development over the last 25 years, has been investigated (Spranz et al. 2012).

The empirical work by Berkowitz et al. (2001 and 2003) on legal transplants is important for this study. The authors argue that the law imported from Europe has been little effective, unless adapted to existing local context or unless there is already some level of familiarity within the population. The impact of this “transplant effect” on economic performance even outweighs particular legal origins reported by La Porta et al. (1999). In the authors’ understanding the transplant effect is a proxy for the process of legal transplantation and reception. If the receiving country managed to adapt the imported law to local conditions or if its population was already familiar with basic legal principles of the imported law, the transplant effect could be mitigated and the new legal norms be as effective as internally developed ones (Berkowitz et al. 2003, p. 167-8). Legal intermediaries (judges, bureaucrats) play an important role in the process of adaptation whereas the pre-existing familiarity with the imported law seems to be based on history. Voluntary reception as opposed to forced reception of the law also seems to influence the transplant effect (Berkowitz et al 2003, p. 177-9). In this context, scholars a various disciplines have argued that the blueprint approach of imported foreign institutions is likely to be unsuccessful (Rodrik 2008 and 2003, p. 13, Evans 2004, Roland 2004, p. 125-6, De Jong and Stoter 2009, p. 320-1).

Legal institutions make just one important group of institutions deemed necessary for long-term economic growth. More generally, the occurrence of a transplant effect raises questions of how it can be explained and how imported institutions can be made effective. Adaptation and familiarity have already been mentioned and these two arguments are roughly in line with the findings of other disciplines (De Jong et al. 2002, p. 30). Berkowitz et al. also indicate that certain contextual factors (availability of legal intermediaries and voluntary reception) may influence the transplant effect and thus the effectiveness of imported institutions.

<sup>1</sup> This paper uses the terms “institutional transfer” or “import” in a neutral meaning (i.e. without indicating success or failure of the institutional transfer). “Institutional transplant” is used for non-adaptive and unsuccessful reception of a single set of institutions. Scholars of various disciplines have used different terms for institutional transfers. Even though connotations may differ, Westney’s (1987) “imitation and innovation” may be a good example. See De Jong et al. (2012, p. 20) for a comprehensive list of terms and De Jong et al. (2002, p. 4, footnote 4) for its academic origins.

This paper applies a theoretic framework based on the new institutional economics (NIE) to contribute to a better understanding of the transplant effect of two former European colonies. One advantage of using the NIE lies in the useful distinction between informal and formal institutions (North 2005, p. 50, critically Hodgson 2006). Most institutional scholars agree that informal institutions are stable over long time (North 1991, p. 111) and set strong incentives for human behavior (Williamson 2000, p. 596-8). This makes informal institutions crucial to the understanding of institutional change in general and the transplant effect in particular. Empirical literature has aimed to underline the importance of informal institutions for economic growth (Claudia Williamson 2009, Tabellini 2007). Likewise, the close relation between informal institutions, culture and economic performance has been investigated (Gennaioli and Rainer 2007, Guiso et al. 2006, Boettke et al. 2008).

At this point some words on methods: Empirical work using for the most part quantitative methods has been useful in demonstrating *that* there is a connection between institutions, cultural factors and economic development. Similarly, Berkowitz et al. (2001) have used cross country regressions to show *that* there is a connection between imported law and the levels of familiarity or adaptation. Analytical narratives such as in-depth country studies may be necessary to improve our understanding of how local institutions influence economic outcomes<sup>2</sup>. Methodologically, this paper contributes to the latter field. It discusses the changes in political institutions of the Bornu Empire in today's north-eastern Nigeria under British colonial rule and upon independence. The aim is to find qualitative evidence of the transplant effect and the determinants (e.g. familiarity, adaptation) mentioned in literature. The second part of the paper compares the Bornu case with the more successful case of Botswana aiming to single out factors which potentially mitigate the transplant effect.

The paper aims to investigate factors which promote cultural adaptation or familiarity and thus increase the effectiveness of imported institutions. It focuses on a specific period of intensive institutional transfer: The British colonial period and early independence. The Kanuri of Bornu Empire have been chosen, because they are a larger, homogenous, landlocked, and pastoralist ethnic group and may be representative for other societies with similar ethnic characteristics. The focus on a single ethnically homogenous region (rather than Nigeria on nation level) is a necessary, because Nigeria's plethora of ethnic groups and minorities with distinct economic, cultural and historic backgrounds would conceal important localized factors. Owing to limited scope of this paper, only political institutions can be discussed.

The paper is structured in five sections. It first introduces relevant theoretic background taken from the NIE (section two). It then investigates the institutional development of the Kanuri of Bornu Empire in north-east Nigeria (section three). The paper uses historic (colonial) and anthropologic evidence to analyze how Kanuri informal arrangements governing land rights and political power have evolved and influenced economic outcomes since pre-colonial times. A brief comparison with Botswana (section four) sheds light on how locked-in institutions have been overcome by successful adaptation of imported institutions. Section five concludes.

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<sup>2</sup> Case studies and cross national econometrics are not substitutes for each other. Rather, case studies can serve - in a complimentary fashion - to advance our understanding of the transplant effect (see also Rodrik 2003, p. 10).

## **2. Institutional economics and the transplant effect**

Within the discipline of economics, political economy and institutional economics more than one theoretic concept may serve to explain the transplant effect. In Weingast (2010) the author uses the recently developed approach by North, Wallis and Weingast (North et al. 2009 – short NWW) to investigate why the rule of law cannot easily be transplanted into developing countries. Although the NWW framework intriguingly puts an important focus on path dependence and the control of violence, it is too deterministic to explain why some countries *did* manage to successfully adopt transferred institutions.

Another group of scholars have used culture to explain institutional change – or the lack thereof (Zweynert 2009, Goldschmidt 2006, Spranz et al. 2012). Here, the question of how imported formal institutions interact with local culture is regarded essential for a successful catching up will developed economies. Different from NWW framework, the cultural approach foresees the possibility of institutional reform, if the right (i.e. culturally fitting) institutions are imported and if the cultural gap can be bridged by adapting the imported institutions. Political actors and cultural entrepreneurs can support the process of institutional transfer. Political crises may promote the process of institutional transfer, but they do not seem to be a condition (Zweynert 2006, p. 188). Culture itself is considered endogenously shaped by the evolving interplay between formal and informal institutions (Zweynert 2009, p. 347, Spranz et al. 2012 p. 4, Goldschmidt 2006, p. 18). The fact that the causality of the constraining power between informal institutions (stemming from a society's cultural background) and formal institutions can run both ways, is a valuable and often neglected contribution in institutional economics (see a similar argument by Chang and Evans 2005). Yet, for the investigation of why the transplant effect occurs to varying degrees across countries, the key elements remain vague: What makes political and cultural entrepreneurs act (rent seeking?). How do they obtain the necessary information of the prevalent cultural norms in the receiving country and of the imported institutions? Which contextual parameters promote or obstruct institutional change?

The theoretical framework used in this paper incorporates some elements of the cultural approach laid out above, but is even more rooted in the NIE. Culture - essential in explaining the transplant effect – is regarded a set of informal institutions of high legitimacy. The endogeneity of culture is taken into consideration by the NIE (see below) and the NIE framework allows the analysis of imported *informal* institutions (such as the English language in former British colonies), which has consequences for the level of familiarity among the population and is particularly useful when we observe longer stretches of institutional transfer such as under colonial rule.

### ***On institutions***

Institutions are humanly devised rules or constraints<sup>3</sup> that structure social interaction. These constraints set incentives for human interaction – economic, social and political in nature (North 1990, p. 3 and Hodgson 2006, p. 13). It is important to note that institutions not only limit but also enable individuals to perform social and economic action (Hodgson 2006, p. 3). Language is a good example. Language enables communication, if actors choose to follow certain rules (grammar and a limited choice of words). Traffic rules are another example for the enabling character of constraints (Chang and Evans 2005, p. 102-3). A major economic function of institutions is that they affect the transaction costs of human interaction such as those stemming from information or enforcement problems (Groenewegen et al. 2010, p. 5). Concrete examples for institutions demonstrate that institutions function on various levels of economic and social activity. Some examples: Water management (e.g. Ostrom 1993, p. 100-1) or land rights grant access to scarce resources (Platteau 2000, p. 83-89), market institutions set the rules for market exchange and contract enforcement (Fafchamps 2004). Political institutions determine the

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<sup>3</sup> The terms “rules”, “constraints” and “norms” are used interchangeably (see also Hodgson 2005, p. 87).

distribution of political power and act as third party institutions. Political institutions thus determine economic performance and economic institutions both directly and indirectly (Acemoglu et al. 2004).

Finally, economists believe that there is a strong link between institutional quality and economic development (North and Thomas 1973; Rodrik 2004 et al. for the empirical evidence). Economic and social development requires larger and more specialized investments and hence more complex institutions to protect property rights and enforce contracts (see Keefer and Shirley 2000 for a brief overview) This view is also shared with other disciplines. Anthropological research has argued that institutional norms evolve together with societal complexity (Henrich et al. 2010).

### ***Institutional change***

What drives institutional formation and change? Following a purely efficiency driven tradition, economic institutions are established whenever wealth-maximizing agents find it rational to do so (i.e. net present value of costs of institutional reform is outweighed by net present value of expected benefits). Once established, this school of thinking tends to treat institutions as exogenously given constraints on human behavior. The early work of Douglass North had elements of this approach (North and Thomas 1973, North 1981). The problem is that it makes institutions efficient (i.e. best possible solution to transaction costs) and effective (i.e. no enforcement costs of institutional norms) by definition. Inefficient institutional solutions, which are widely regarded causal for the lack of economic development, should not exist along these lines of thinking.

A more realistic narrative regards institutions as spontaneously and endogenously established social rules established in repeated interactions of actors under limited rationality and limited information (Aoki 2007, Greif and Laitin 2004). Language is again a good example for a spontaneously evolving institution – largely without central human design or planning. Other, non self-enforcing examples, such as the law, are partly created and enforced by a third party - which again is an institution (Hodgson 2005, p. 87). This second view makes institutions more sensitive to geographic, historic and cultural context under which they are created. Here, rules of behavior have to be continually reconfirmed and reproduced through relevant social and economic actions of agents in order to become effective and sustained institutions (Aoki 2007, p. 10). Seen from this perspective, institutional evolve gradually (North 1990). Add path-dependence and limited rationality to this narrative and institutions, which may have been an efficient solution to a particular transaction cost problem, can lock in and turn out economically sub-optimal (i.e. impeding economic development), if contextual parameters change over time<sup>4</sup> (Boettke et al. 2008, p. 332 and Aoki 2001, p. 16). Likewise uncertainty, bounded rationality or mutually shared expectations may lead to the establishment of an initially disadvantageous institution. That is because once established, an institution will deliver increasing returns with a growing number of adopters - no matter, if it is the best possible solution or not (Bardhan 2001, p. 275-6). The process of institutional change is thus non-ergodic: Multiple outcomes are possible and small historic events can significantly influence the larger course of institutional change (North 2005, chapt. 2, see also Bardhan 1989, p. 1392). In brief, institutional change is possible by a gradual process of renegotiation between agents or facilitated by exogenous shocks (crises, wars, revolution etc) which break some institutions out of path dependence and allow the establishment of new institutions from scratch. Institutional transfer – the interesting topic in this paper is yet another option (see below). Either way, the newly established institutions may or may not present the most efficient solution depending – among others - on interdependencies with other existing institutions (e.g. cultural beliefs) and the information of establishing agents.

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<sup>4</sup> For a game theoretic approach to this problem see Aoki 2007 (p.17) for a brief introduction and Aoki 2001 (p. 225-9) for an elaborate discussion.

### *A hierarchy of institutions*

From the above we can gather that institutions are highly interdependent. In an ideal world, institutions complement each other to form an efficient institutional framework. Property rights are guaranteed by the law and enforceable in court. Underlying these institutions are a common language and most likely a common writing system. Think of Nigeria with its multitude of languages and customary courts and the enforcement of property rights becomes a problem for the individual citizen once s/he leaves the region of her birth. The example also shows that because of these strong complementarities the replacement of a single institutional norm may be problematic. By this logic alone, a successful transfer of institutions will have to carefully adapt the incoming institution to the existing framework.

But apart from being interdependent, institutions also differ in normative power and in their resistance to change. Here, the distinction between formal and informal institutions matters for our discussion. Formal institutions typically consist of written norms and constraints such as a constitution, the law and regulations etc. which are typically enforced by a third party (e.g. a court). Informal institutions are unwritten norms of repeated human interactions. They very often embody moral codes, which can be very diverse across cultures. Informal rules are generally enforced by peers (North 2005, p. 50 and Hodgson 2006, p. 11 cf correspondence with Douglass North from 2002). A clear distinction between formal and informal rules is difficult and most institutions consist of both elements. The law for example is mostly written (i.e. formal) norms but customary law is an important part of it even in the Western world. In the context of this study, the term “formal institutions” is used for institutions which predominantly consist of formal rules and “informal institutions” for institutions where informal rules dominate. In a broader economic context, we can expect an increasing need for formal rules (e.g. written contracts) in developed economies with increasing complexity of human interaction and with rising transaction costs. Unsurprisingly, informal institutions play a major role in countries with lower literacy rates. This is not necessarily problematic. Even though formal rules allow more complex transactions, societies can go some way towards resolving information and enforcement problems using informal institutional arrangements (Jütting 2003, p. 11 and Leeson 2007). Informal institutions seem particularly effective in repeated and personal interactions (e.g. village markets). Microcredit schemes for example use informal institutions of contract enforcement such as reputation or peer pressure (Keefer and Shirley 2000, p. 96).

It is important for the analysis of the transplant effect that formal and informal institutions differ considerably in normative (constraining) power and their horizons of changeability. Oliver Williamson (2000) proposed a scheme of four interconnected levels of institutions. Figure 1 shows that informal institutions (level one) enjoy highest legitimacy and have the ability to impose constraints on lower levels. This means people would rather follow rules of informal institutions (e.g. moral codes), if these conflict with lower ranking (formal) institutions (e.g. the written law). An empirical study by Claudia Williamson (2009) has so far supported Williamson’s hierarchy of institutions. All levels of institutions in Figure 1 are interconnected by up reverse arrows, which indicate endogeneity in the causal relationship between institutional layers.

Level one institutions are not only highly normative; they are also stable and rather persistent to short time change. Again a few empirical studies have supported this assumption (Gennaioli and Rainer 2007). According to Oliver Williamson (2000, p. 596) “sharp breaks from established procedures” such as civil wars or political crises are necessary to effect reform on this level. Level two in Williamson’s hierarchy is where formal institutions enter the equation. Formal rules (property rights, constitutions, laws) allow first-order economizing. This is where most institutional and economic literature is placed, often taking level 1 institutions as given and leaving the field of their investigation to economic historians and social scientists. Levels three and four, which are outside the scope of this paper, are where institutions set transaction costs such as those stemming from enforcement or information problems (Williamson 2000, p. 596-8).

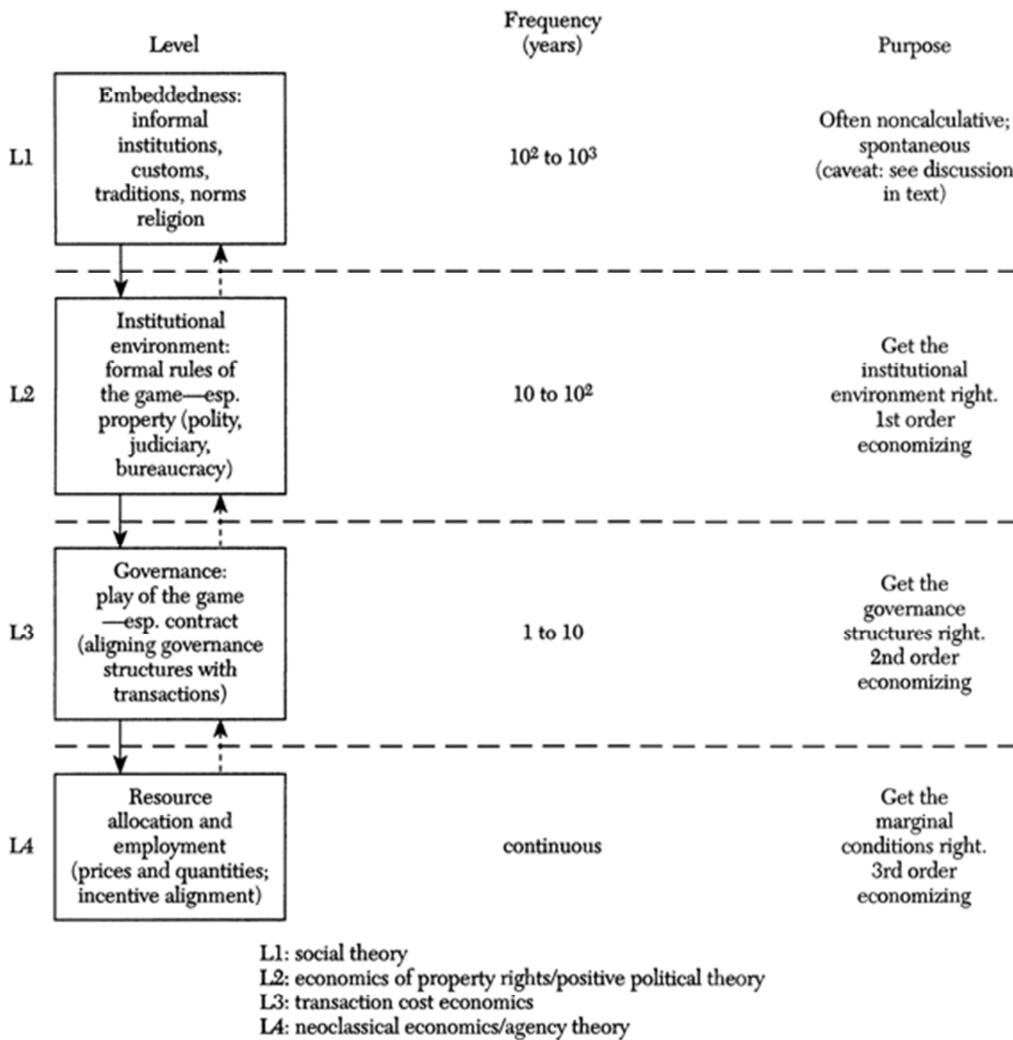


Figure 1: Hierarchy of institutions

Source: Williamson 2000

### ***Institutional transfers***

Despite the inertia of informal institutions, history shows that institutional transfer of institutions is one possible way of institutional reform (Japan, South Korea etc). How to break out of persistent informal and local arrangements and reach a more efficient institutional equilibrium? Literature points at least at four determinants: First, most scholars would agree that institutional change benefits from a sharp break from established practices (Williamson 2000, p. 598, Roland 2004, p. 115, De Jong and Stoter 2009, p. 321). Independence from colonial rule may present such an opportunity and independence sets also the focus of this paper. Japan's Meiji Era is often cited as an example of such a window of opportunity with considerable cultural adaptation of the imported institutions (Boettke et al. 2008 p. 341-3, Chang 2006, p. 12). Post-communist Russia may well serve as another – though less successful - example in recent history (Berkowitz et al 2003, p. 164-5). This determinant is probably the only truly exogenous one.

Second, owing to the high contextual nature of institutional arrangements, adaptation of the imported institutions will be necessary (De Jong and Stoter 2009, p. 320-1, Berkowitz et al. 2003). Adaptation will invariably lead to a second-best institutional solution (Rodrik 2008). Botswana's legal system successfully incorporates customary courts – which are far from being objective arbiters - into a system of appeals based on Dutch Roman model (Seidler 2011, p. 91). English language (an informal institution) has been imported to many former British colonies, but words and pronunciation have been adapted by local speakers. The examples show that adaptation occurs for imported formal and informal institutions. Conclusive research is

still missing, but the two examples also indicate that the process can be centralized (Tswana law system) or decentralized (English language) – probably depending on the nature of the imported institution. Why adaptation is not always successful, but leads to varying degrees of the transplant effect (Berkowitz et al. 2003) is still an open question to which this paper wants to contribute.

Third, familiarity with the new institutions among the recipient society has a role to reduce the need for adaptation (Berkowitz et al. 2003, p. 192). We have little empirical studies or comparative analytical narratives on familiarity and the transplant effect. Settler colonies (Canada, Australia) may have benefitted from increased familiarity (Berkowitz 2003b, p. 182, see also Acemoglu et al. 2001). In addition, a range of scholars have vaguely pointed at the role of “institutional entrepreneurs” (De Jong and Stoter 2009, p. 321) or “cultural entrepreneurs” (Zweynert 2009, p. 350) or “legal intermediaries” (Berkowitz et al 2003b, p. 168) who support the processes of familiarization and adaptation.

Fourth, local culture and informal institutions may change in reaction to the imported (formal or informal) institutions. During colonial rule, Tswana migrant laborers imported Dutch and English language together with European way of living back to their home settlements (Schapeera 1933, p. 404-6). Similar reports of new culture and working ethics exist from pre-industrial Japanese and pre-industrial Germans (Chang 2006, p. 492-3). This “re-constitutive” (Hodgson 2006, p. 7, Chang and Evans 2005, p. 103) element of imported institutions takes a long time to be effective. British rule of Bechuanaland lasted from 1885 to 1966. Roughly two generations of labor migration and intensive exposure to European lifestyle brought gradual modifications of Tswana culture and language. Often overlooked, this second direction of causality is an important element of the explanatory power of the institutional framework.

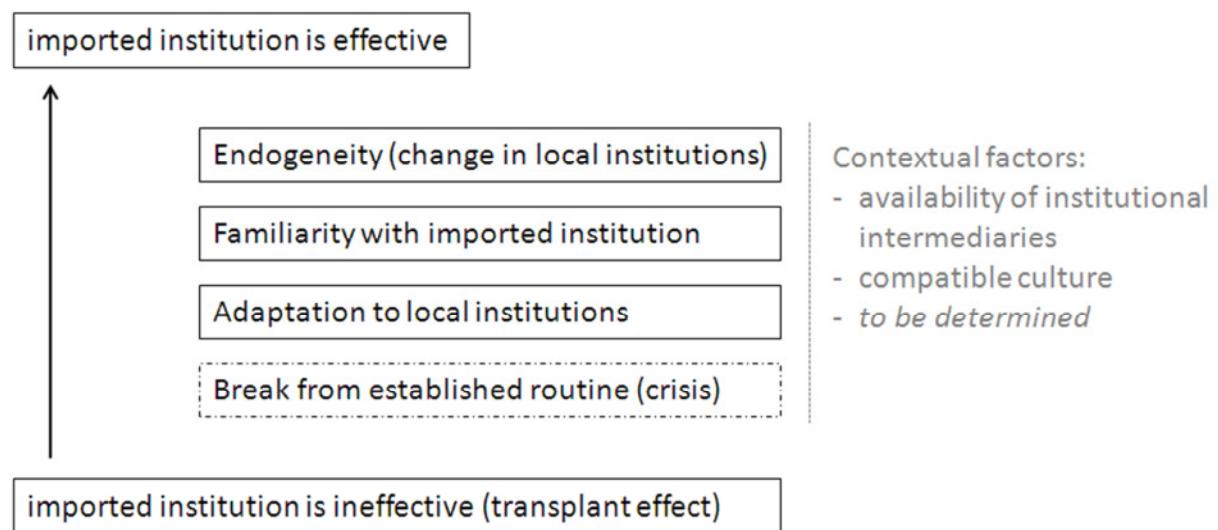


Figure 2: Determinants of the transplant effect

Source: Berkowitz et al. 2001, Zweynert 2006 and 2009, Williamson 2000

In summary, the theoretic framework provided by institutional economics suggests that informal institutions (embedded in local cultural norms) matter for economic growth, because of their stability over time and their ability to put constraints on formal and imported institutions. This is why imported institutions (formal or informal in nature) need to be adapted to prevailing informal institutions to be effective. Another – much slower - option would be that the culture of the receiving country changes in accordance with the imported institutions. We still know very little about why institutional transfer worked in a few countries and failed in many others (transplant effect). According to a non-ergodic understanding of institutional change, the context matters. The availability of institutional intermediaries (e.g. well trained bureaucrats) may be such a

factor, but more research is needed. Furthermore, stochastic shocks (such as independence), adaptation and familiarization are important, but what determines their success has yet to be clarified.

Given the contextual nature of informal institutions and their embedment in local culture, surprisingly few *analytical* country studies have so far been undertaken to support this theoretic argument. Among African countries Botswana's institutional success story is probably the best researched case (see for example Robinson 2009, Beaulier and Subrick 2006, Acemoglu 2001). The next section shows that the Kanuri - an African landlocked ethnic group comparable in size, ethnic homogeneity and colonial past - were less successful in institutional adoption.

### 3. The Case of the Kanuri of Bornu

Although the administrative status of the territory has varied over the centuries, the Bornu Empire (today Borno<sup>5</sup> state) on the eastern shores of Lake Chad has been politically and culturally dominated by the Kanuri (Sarch 2000, p. 4).

Borno state is home to an estimated 4 Mio Kanuri<sup>6</sup> and a smaller number other ethnic groups (e.g. Bura, Fulani etc). Kanuri and Arabic are the dominant languages. The Kanuri today are overwhelmingly pastoralists and subsistence farmers. Maiduguri is the capital of Borno state and its main urban settlement. Population density is low with 60 inhabitants per square kilometer (Borno State Government 2012 and UNHCR 2012).

Islamification of the region began in the 11th century and in its wake came literacy and strong interregional trade with the north and north-east of Africa (Curtin et al. 1978, p. 90). By the mid-19th century, the Kanuri and their subjected ethnic groups were ruled a by powerful Shehu (Sheik). This last Bornu Empire dominated the region and subjected ethnic groups around the Lake Chad making the Kanuri vernacular the dominant language in Borno (Crowder, 1978a, p.15). Arabic which also served as written language among educated Kanuri (Denham et al. 1828, p.162). The Bornu Empire came under colonial (mostly British) domination around 1902 (Crowder 1978a, p.180-182).

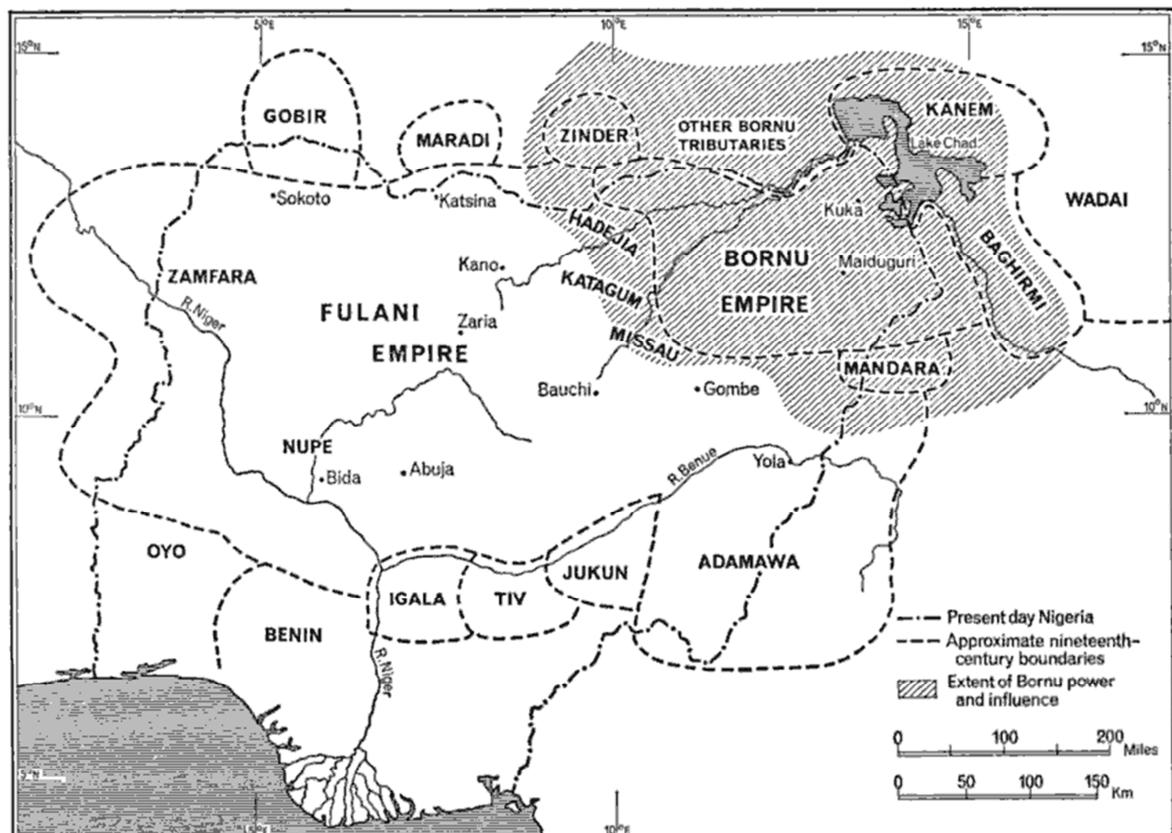


Figure 3 The Bornu Empire in mid-19th century Nigeria.

Source: Cohen 1971, p. 76

<sup>5</sup> Borno is the modern name. Until the early 20<sup>th</sup> century, the spelling "Bornu" was more common

<sup>6</sup> Figures vary considerably depending on source.

Owing to the enormous variety of its ethnic groups, British control over today's Nigeria was by no means uniform and remained highly decentralized. Colonial administration effectively divided Nigeria into a Muslim north and a Christian south. European immigration in Northern Nigeria and Bornu remained minimal (Coleman 1963, p. 46-7).

Upon independence in 1960, Bornu became part of the newly established Nigeria. Today – after years of military rule and constitutional revisions - Nigeria is a federal republic and Bornu one of 36 federal states. Federal Nigerian state institutions broadly fail to provide a framework for basic political and economic institutions on a nation-wide scale. The Worldbank Governance Indicators project ranks Nigerian institutional quality among the lowest 25% worldwide on several categories (Kaufmann et al. 2009).

### ***Political institutions***

This section discusses the import of political institutions into Bornu during two periods of intensified institutional transfer: Colonial rule and post-colonial independence. Anthropologic and sociological research on Kanuri political institutions (Kirscht 2001) reveals the persistence of informal institutions from the 19<sup>th</sup> centuries and before. A simple comparison of political hierarchies (Figure 4 to Figure 6) displays remarkable similarities between pre-colonial rule, indirect colonial rule and modern administration.

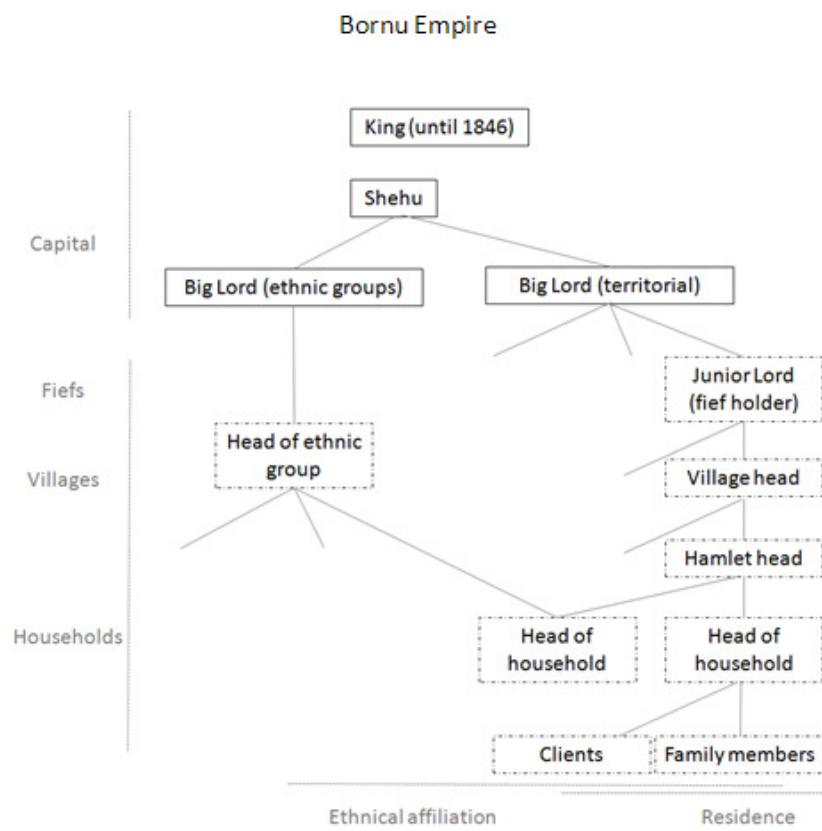


Figure 4: Simplified political hierarchy of Bornu Empire (19<sup>th</sup> century)  
Sources: Cohen 1971, Crowder 1978, Kirscht 2001.

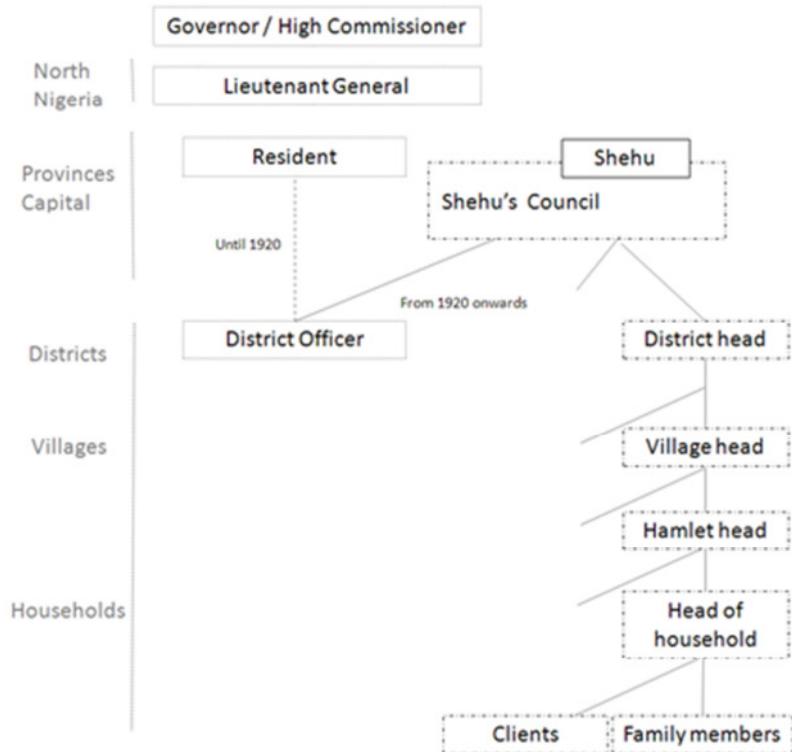


Figure 5: Simplified political hierarchy of Bornu under colonial rule  
 Sources: Cohen 1971, Crowder 1978, Kirsch 2001.

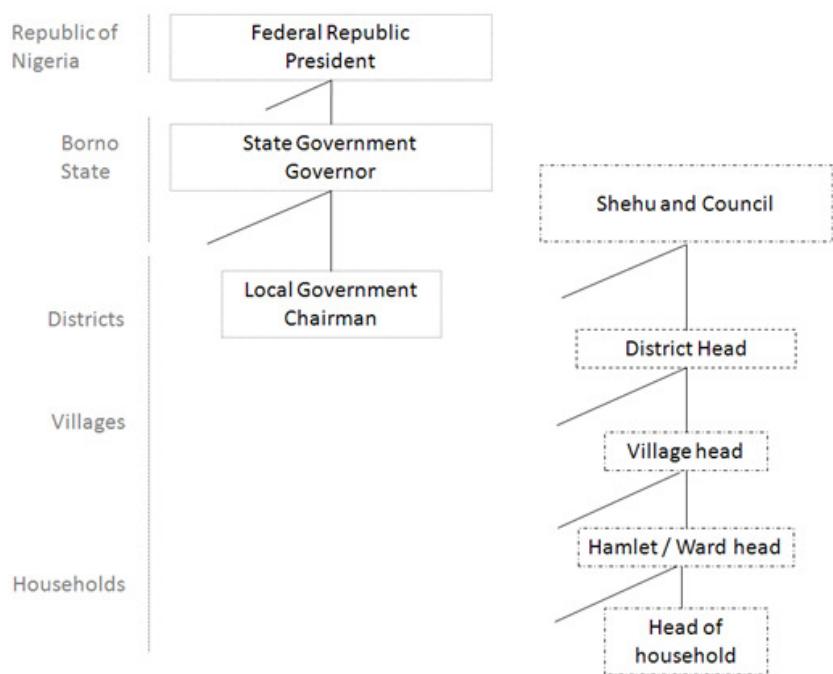


Figure 6 Simplified political hierarchy Borno State (post 1976)  
 Sources: Cohen 1971, Crowder 1978, Kirsch 2001.

Until the colonial era and well beyond, the underlying institution behind traditional Kanuri political hierarchy stemmed from the repetitive pattern of patron-client relationships throughout the Kanuri society. At its lowest level, the household represented this patron-client relationship between the head and household members. A peasant believed in the legitimacy of the authority of a head of household or head of village as in the legitimacy of the Shehu's rule (Cohen 1967, p. 46). Fief holders, village and hamlet heads were entitled with specific rights (e.g. allocate resources such as unsettled land). In return

they were expected to raise militia for defence or military campaigns (fief holders only), administer justice and assist in raising taxes. In general, positions and rights were hereditary in the male line but depended on the Shehu's (tacit) approval (Cohen 1967 p.25-27). A second ethnic based hierarchy existed in pre-colonial times, which helped administer (and tax) nomads or otherwise internally displaced (e.g. after wars). It was dropped under colonial administration (Cohen 1971, p. 106).

The stability of the political institutions was further supported by other institutions: The Kanuri tradition of gift exchange (Seidler 2011, p. 123) and by Islam under which the Shehu was the highest religious and legal authority. Islamic scholars (ulamas, mallams) – the literate class of that time – were close to the Shehu and gave legal advice or mediated in conflicts (Lydon 2009, p. 279-308 and Cohen 1967, p. 22-25).

### ***Political institutions under colonial rule***

The persistence of Kanuri level 1 political institutions (patron-client relations supported by gift-exchange and religion) was tested in 1900, when the British took control of Northern Nigeria. Indirect rule was chosen to effectively establish control and British administration over 15 million people with limited financial and human resources (Crowder 1978a, p. 179). This ruling strategy kept transfers of new institutions at a minimum. Imported political institutions built on existing patterns of rule. Under indirect rule, existing traditional political leaders (Emirs, Shehus, chiefs etc.) were to govern their people, not as independent but as dependent rulers (Crowder 1978b, p. 221-222 and Crowder 1978a, p. 199-200). Following the paper's theoretic framework indirect rule corresponds to adapting incoming institutions to a very large attempt. There was a clear advantage for the colonial ruler: minimum conflicts with the existing local norms. By imposing direct rule the British would have risked disobedience and costly enforcement of the new institutions (Lugard 1922, p. 210-211).

Only two objectives of British colonial rule broke with this policy of high adaptation to existing political institutions in Northern Nigeria: Changes were introduced to increase the efficiency of tax collection and budgeting (Crowder 1978b, p. 199). Fiefs (renamed into "districts") and village areas became more consistent and generally larger in size with fewer traditional leaders to administer them. From 1904 on, the British replaced traditional district heads with more obedient men from outside the region (Kirscht 2001, p. 47-8). Naturally, such personnel decisions conflicted with traditional claims a family held on specific political offices. Old ties based on patron-client relations were perturbed by fresh men, who were not part of the local patron-client system. The new men found themselves at the frontier line between informal and formal norms. The British expected a transparent and more cost-efficient administration, but local leaders and the Shehu had very concrete (often financial) demands to men in these positions (Cohen 1962, p. 87-120). Confronted with problems of legitimacy the new men had to quickly win the loyalty of the Shehu's men above them and of the village heads below them (Kirscht 2001, p. 50-2). In most cases this involved trying to depose of uncooperative local leaders. In some cases new men brought in their own clients and used them as loyal - and sometimes violent - henchmen to establish authority in the villages. Relying on British authority alone seemed to have been insufficient: In 1906, a farmer in northern Bornu was reportedly flogged to death for having expressed his wish to complain to the British officials (Cohen 1971, p. 108).

### ***Institutional transfer upon independence***

Institutional transfers intensified after WW II. The Local Government Dispatch from 1947 was an attempt by the Colonial Office in London to modernize traditional rule and introduce some degree of democracy in the colonies. It had little initial impact in Bornu (Kirscht 2001, p 60-1 citing Yakubu 1996).

Also in 1947, the Richards Constitution made Bornu part of the newly created Northern Region and established new legislative institutions roughly based on the British model: The Northern House of Assembly and the House of Chiefs. These changes did little to curb the powers of the Native Authority (the Shehu and his council) but it paved the way for the first political parties in the early 1950s. In a similar manner, constitutional and political reforms that followed (including independence in 1960) had little effect on the institutional effectiveness of the traditional administration. In particular on district and village level Kanuri political institutions were shaped by the informal norms stemming from patron-client relations until the mid 1970s. In 1976, local governments with elected representatives were introduced on district level after new constitutional reforms (see Figure 6). This reform and the fact that Nigerian oil revenues are channeled to local governments (Englebert 2009, p. 136) finally forced traditional leaders into cooperation with representatives of the federal government structure.

Similar to colonial times, the dual hierarchy today shared by traditional leaders and representatives of the federal government results in alliances and conflicts, which are solved on a case to case basis. Many examples of such institutional conflicts have been recorded by Kirscht (2001) during anthropological research conducted in the 1990s. At this point, two examples will have to suffice: The district head ("aja" - a traditional function) of Marte district near Lake Chad had been called to solve a violent conflict between Fulani cattle herders and Kanuri farmers. The traditional leader ordered a squadron of police (federal agents) to take a pick-up truck and assist him in settling the conflict. The police obeyed. Formally, district heads hold no executive powers, but old informal institutions make them responsible for solving conflicts between famers and cattle herders (Kirscht 2001, p. 79). Another institutional conflict has been reported between a non-Kanuri Nigerian entrepreneur and a local head of village. Traditional informal institutions limit non-Kanuris' rights of land purchases. Therefore the businessman sought the backing from local government officials and the Chad Basin and Rural Development Authority (CBDA)<sup>7</sup> – a federal agency. Local farmers, who were supposed to make way for a modern agricultural farm, turned to the head of village. The political tug of war lasted over years. Attempts to dismiss the rebellious head of village failed. Although never explicitly formalized, the position of head of village is considered hereditary and lifelong (see above on informal political institutions). In the end the agricultural development project had to be shelved for an indefinite time (Kirscht 2001, p. 90-96).

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<sup>7</sup> The CBDA was founded in 1973 to implement rural and agricultural development projects near Lake Chad.

#### 4. Lessons from Bornu and Botswana

The examples from Bornu support the main arguments provided by our framework laid out in section two. Informal traditional Kanuri institutions tend to trump non-local formal institutions with little matter who imported them - British colonizers or the federal government. In comparison with Botswana – widely regarded as institutionally successful - the Kanuri case sheds some light on determinants of institutional adaptation. By applying the paper's theoretic framework (see Figure 7) we can draw some early insights from the discussion.

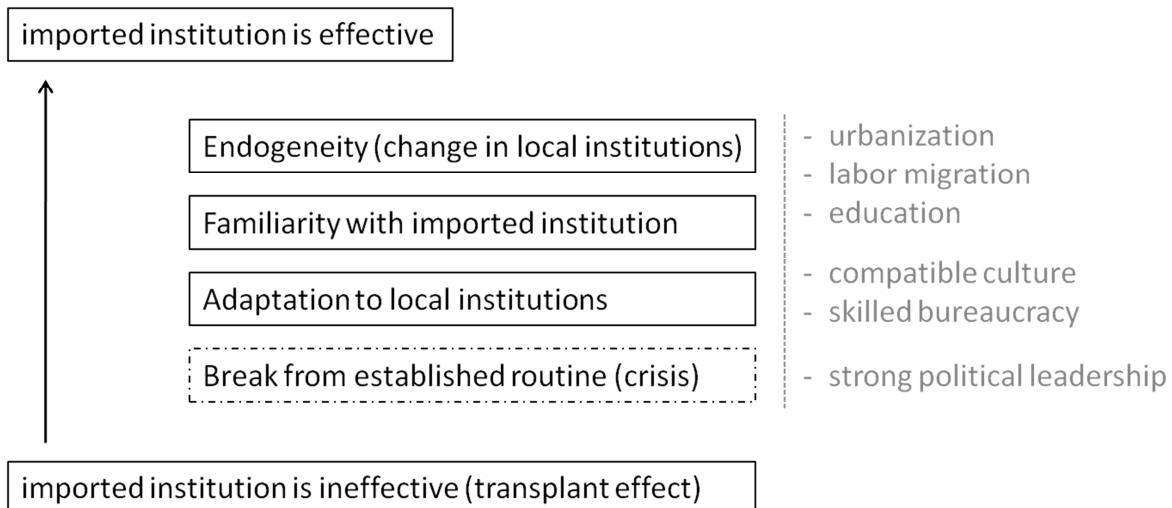


Figure 7: Determinants and factors in the cases of Bornu and Botswana

Source: Berkowitz et al. 2001, Zweynert 2006 and 2009, Williamson 2000

Adaptation - Institutional intermediaries: Foreign institutions are probably best adapted to local counterparts by agents with experiences in both cultures. The lack of western educated bureaucrats in Bornu is regarded as one important factor for the weak implementation of federal law (Kirscht 2001, p. 64). Although public services were built on the British model upon independence, the bureaucracy in northern Nigeria defended its Kanuri roots. Civil servants were recruited according to ethnic affiliations, who then implemented policies loyal to their ethnic origins and religious orientation (Dibie 2003, p. 74-75). Additionally, western educated bureaucrats were mainly available in Lagos. Botswana chose a different way. Around independence the administration was staffed predominately by expatriates (British or South African) or by Tswana who had been educated in London or South Africa. The Tswana administration grew rapidly by around 20% per year in the years after independence (Lange 2009, p. 9-10), yet in 1964, expatriates still held 75% of all senior and middle management positions in public services. In 1977 their share was still 33% (Parson 1984, p. 41-42). Despite public pressure, "localization" was gradual and enabled president Seretse Khama (himself educated in London) to carefully import and adapt foreign institutions in the years after 1960 (Picard 1987, p. 85-89 and Lange 2009, p. 15).

As a result, Botswana's democratic system today successfully combines the European with Tswana traditional institutions. Tswana jurisdiction is one example. 70% to 80% of all civil and minor criminal cases are settled efficiently at around 500 customary courts. These trials still follow informal and non-codified customary law. Higher ranking appeal courts provide the necessary congruence with written law on national level (Lewis 2006, p. 13-14 and Ditshwanelo 2010). In Bornu state, Islamic law<sup>8</sup> was

<sup>8</sup> The abolition of Islamic law (at least its penal code) had been one of the conditions for independence. From October 1st 1960 on the jurisdiction of Islamic courts was limited to civil proceedings involving questions of Islamic personal law (e.g. family status, marriage and divorce). A new secular civil law was quickly drafted for the northern states only. It drew heavily on the

reintroduced in 2002, where it has strengthened traditional political institutions and the position of the Shehu as religious leader. Local Governments and other state authorities have so far accepted the outcome of Sharia law cases, even when found in contradiction with existing federal law. The reintroduction of Sharia law has led to violent clashes between Christians and Muslims in Borno and northern Nigeria (Kirscht 2001, p. 90 and Harnischfeger 2008, p. 16, 87-9, 106).

**Familiarity - compatible culture:** European settlers are one obvious factor as they brought with them high familiarity with European institutions (Berkowitz et al. 2011, p. 181). In Borno and Botswana European immigration remained negligibly low. However some scholars have argued that the Tswana benefitted from traditional political institutions which were compatible with values of imported European democracy. In particular Tswana political assemblies ("kgotla"<sup>9</sup>) encouraged broad based participation and placed constraints on political elites not unlike later imported democratic institutions (Acemoglu et al. 2001). Such pre-colonial political institutions may have provided a degree of familiarity with the democratic institutions imported upon independence. Kgotla meetings also presented a useful platform for early political campaigning and were widely used by the Botswana's most important political party around independence: The Bechuana – later Botswana - Democratic Party (BDP) (Lewis 2006, p. 10-12 and 14-15). The kgotla remains popular even today and Botswana's constitution grants the kgotla important democratic and judicial functions. Research conducted in rural Botswana revealed that in 1979 trust in the kgotla was still higher than in any newly established government body (e.g. district council) (Picard 1985, p. 66-68).

**Familiarity and endogeneity – education:** Colonial schools taught reading and writing and familiarized with European values. Furthermore and at least for British colonies, mission schools played an important role in primary education. Schools run by missionaries contributed to a gradual change of local informal institutions by introducing English language and European values (including of course, Christian faith). Scholars of various disciplines have supported this argument (see for example Peshkin 1972 who investigated changes in individual values among Kanuri students).

In Nigeria, British schooling policies differed with the regions. In the Muslim north, the British colonial administration had initially promised in 1900 to maintain all pledges which had been given by the Royal Niger Company. This included not supporting the work of Christian missions in the Muslim north. Missionaries (and thus European education) could only operate upon invitation by the traditional ruler of a province – which never happened in colonial Bornu (Coleman 1963, p. 133-6). As a result literacy was minimal in English and low Arabic. In 1952, literacy rates in Bornu were 0.9% in roman script and 2.1% in Arabic (Coleman 1963, p. 135). In 1960, an estimated 8.9% of children aged 6-7 attended school in Bornu (Peshkin 1972, Appendix 4). For a western economist travelling through Nigeria a year after independence, the lack of educated workforce was clearly visible (Stolper 2003, p. 37-9). In Botswana, literacy rates and knowledge of English language were arguably higher. European missionaries zealously built schools in Bechuanaland Protectorate. Colonial anthropologist Isaac Schapera (1933) reported that in the 1930s roughly 20% of children in Mochudi, a town close to the eastern border, attended European (missionary led) school. School attendance rose quickly after independence. In 1966, estimated 66.000 (roughly 10% of the whole population) attended primary schools. Attendance grew by an average of 5.4% until 1995 (Leith 2000, p. 5).

**Endogeneity - wage labour and labor migration:** Under colonial rule, Lagos - being the capital and an important transport hub - offered more participation in labor markets than remote Bornu. Also European contact started much earlier in the south, which became a colony in 1861. As a result European lifestyle, English language and British currency were widely spread in Lagos, but very little in Bornu. In a similar

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British criminal code but incorporated Islamic elements (e.g. ban of alcohol, adultery), which were only binding for the Muslim population (Harnischfeger 2008, p. 61-2).

<sup>9</sup> The term kgotla stands for the meeting place as well as the assembly itself in which the political ruler seeks consensus among the population before taking a decision. Kgotlas can be found on various levels of administration (village to district) (Seidler 2011, p.63-64.)

manner, those Tswana tribes living in the fertile region close to the southern and eastern border had more intensive contact with Europeans. In this densely populated stretch an estimated 40% of the male workforce in this region worked outside the colony in European mines or plantations in neighboring South Africa and Orange Free State (Schapera 1933). Informal institutions such as European languages, lifestyle and working hours were common among young Tswana (Seidler 2011, p. 82-84). Early form of labour markets emerged on Tswana territory. British currency slowly replaced livestock as means of payment as Tswana chiefs started to accept cash for tribute payment or fines (Schapera 1955, p 65, 86, 230-1, 273). We lack precise figures for the Kanuri of Bornu, but in northern Nigeria salaried employment was scarce and concentrated on government, transport services and construction business. Thaler and cowry shells were used as currency (Temple 1919, p. 434). Figures of 1954 for the northern Nigerian provinces report that only 254.000 out of 30 Mio population earned wages (Coleman 1963, p. 69). Tentative estimates of the number of wage earners in Bornu are around 1% of the population in 1954 (Seidler 2011, p. 146).

**Endogeneity - urbanization:** Scholars have argued that centralized institutions such as markets, justice or taxation benefit from lower enforcement costs urban areas of high population density (Platteau 2000, p. XIX and Gennaioli and Rainer 2005, p. 22). Pre-colonial Tswana tribes had a preference for major settlements, which marked the economic and political centers of each tribe. In the 19<sup>th</sup> century, Tswana towns were among the largest settlements in Southern Africa<sup>10</sup>. Colonial reports from colonial Mochudi, a Tswana town close to the border indicate facilitated contact with missionaries, schooling and taxation, which again promoted labor migration (Schapera 1933, p. 402-406). In contrast, the Kanuri had no tradition of major settlements. Estimates from the 1952 census indicate that roughly 25% lived in settlements of 10.000 citizens or above (Cohen 1967, p. 5). A study conducted in 1966 found that although urbanization was increasing, only two Kanuri settlements could be regarded cities – Maiduguri (the capital) and Nguru (Pershkin 1972, p. 283)

**Break from established routine – strong political leadership:** Institutional changes around the independence of Nigeria were again more noticeable in Lagos than in the Muslim north (Stolper 2003). Rural Kanuri may have hardly noticed independence when it happened. Interviews with Kanuri farmers on western coast of lake Chad reveal that they have little memory of independence itself. Political and administrative changes in the mid 1970s which introduced local governments are however well remembered (Kirscht 2001, p. 65).

Botswana reformed many of their political institutions in the rather short period of roughly ten years before and after independence (see Lange 2009 for a full account). Among the many historic factors, which may have contributed to this development, the political role of Seretse Khama, heir to the chieftainship of a major Tswana tribe and first president of Botswana, was probably most influential. Khama had been banned from the colony in the last years of colonial rule (he had married a British woman during his studies in London). Upon his return he mobilized the Tswana and united many of them behind him (Lange 2009, p. 10-13). Without doubt, Khama benefitted from noble ancestry, his charisma and European education which allowed him to bridge interests between traditionalist and modernizing elements around education (Acemoglu et al. 2001, p. 15-6 and 23). Khama used his influence and popularity to integrate (and weaken) traditional political institutions in a series of formal acts. In a first step the Chieftainship Act of 1965 confirmed and formalized the chiefs' traditional powers. After the chiefs had agreed to this formalization of their rights and powers, these were gradually eroded by acts of parliament (Adams et al. 2003, p. 3). The Tswana political elite, however, failed to push through a necessary reform of land rights around independence. As a result land ownership remains problematic with no effective market until today (2nd CCA for Botswana 2007, p.23).

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<sup>10</sup> By 1866, the capital of the Ngwato (then called Shoshong) counted 30,000 inhabitants (Palmer and Parsons 1977, p. 115-116). Other Tswana towns (such as Serowe and Kanye) were considered major towns of their time (Parsons and Robinson 2004, p. 17-18).

## **5. Conclusion**

The paper has applied a theoretical framework based in new institutional economics to investigate determinants and factors of the transplant effect. The discussion of Kanuri political institutions supports important arguments of the framework. Informal institutions based on cultural norms and traditional practices have the power to override formal institutions, even if the latter present better options for long-run economic development. Still today, Kanuri political institutions are shaped by traditional patron-client relations – an informal institution which has persisted over centuries. The Bornu case gives evidence of the transplant effect, because the mentioned formal institutions have been imported from the former colonial ruler or imposed by a distant federal government. While the case of the Kanuri may be to some extent exemplary for other pastoralist African countries, it has been a goal of this paper to explore which factors contribute to the transplant effect and how it can be mitigated.

In the second part, the paper has discussed a range of determinants suggested by literature which are believed to influence the effectiveness of imported institutions. By comparing the Bornu with Botswana, another (well researched) African pastoralist society of similar size, the paper has aimed to show that a range determinants matter for institutional effectiveness and that the determinants themselves depend on highly contextual factors. Bornu history shows that independence (a determinant) does not necessarily present a window of opportunity which unchains locked-in institutional arrangements. An able political leadership around independence may be one of the factors which promote the political and social change necessary to seize the opportunity. Other factors (e.g. high level of urbanization) seem to promote familiarity and endogeneity – both valuable in mitigating losses in effectiveness of imported institutions (transplant effect).

At this point a cautious remark seems necessary. The highly contextual nature of the paper makes any generalization futile at this stage of research. Rather, more studies based in institutional theory would help strengthen the argument made in this paper. Additional important factors had to be omitted due to limited scope of this paper. The role of resources cannot be underestimated in diamond-rich Botswana. Violence and political instability of Nigeria as a country may have had deteriorating effect on the Kanuri political institutions. Similarly, the role of Islam in institutional transfers has only been touched upon and could well deserve a paper of its own.

However, the findings of the paper may start renewed empirical research of institutional transplantation in (at least the British) colonial period. The role of well-trained bureaucrats, for example, in adapting institutions could deserve more research and lead to policy implications for international aid and national decision takers. Finally and in line with some of the literature (Rodrik 2008), policymakers may be advised to assess existing informal institutional arrangements before administering institutional development policies without adaptation.

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