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**Author**

Walker, C

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# Regulatory transfer in transitioning economies: responses to corruption and weak state institutions

POLICY STUDIES

C. WALKER

Christopher Walker

The Australia and New Zealand School of Government (ANZSOG), Melbourne, Australia 

**CONTACT** Christopher Walker [c.walker@anzsog.edu.au](mailto:c.walker@anzsog.edu.au) 

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## ABSTRACT

This article examines regulatory policy transfer into a transitioning economy and explores the impact of corruption and weak state institutions on the resulting regulatory design and implementation. The study looks at an accreditation programme aimed at lifting the safety performance, compliance and business efficiency of truck operators in South Africa. In this case study a heavily state directed programme operating in Australia undergoes significant modification and redesign to achieve similar regulatory effect in the South African context. The case highlights how in transitioning settings the requirement to deal with local cultural and contextual issues such as corruption and weak state institutions, results in innovative regulatory design and delivery frameworks. While highlighting adaptation progressed through transfer, this study points to the important role industry can play independent of government in delivering the regulatory effect. The findings demonstrate the value transfer studies can bring to the analysis and understanding of policy and regulatory practice. This is a qualitative study drawing on interviews and participant observation with industry and government officials involved in the South African trucking industry.

## KEYWORDS

- Regulation
- corruption
- policy transfer
- self-regulation
- heavy vehicles
- fragile states
- regulatory governance

## Introduction

The governance of many industrial sectors around the world tends to share a common range of institutional risks and concerns. This reflects the general consistency of industrial risk and community interest for safety and compliance that characterize each sector. In this context policy, administrative systems, institutions and regulatory models are regularly copied, shared and adopted across levels of government and between nations, since it is both practical and efficient to draw on the experience and expertise of others who deal with similar challenges. Yet the circulation and adoption of policy models is not a straightforward or simple

process and while in some instances transmission may readily flow through culturally aligned networks (Legrand 2015) implementation tends to result in localized differences (Peck 2011). This restructuring through transfer reflects the influence of local politics, institutional capacity, resources, culture and a myriad of other local factors that essentially shape policy development and implementation (Stone 2012; Smith 2013; Peck 2011; Baker and Walker 2019; Zhang and Marsh 2016; Varjú 2021).

This article presents an analysis of regulatory policy transfer, development and adaptation within the transitioning economy of South Africa. The study examines the design, development and implementation of an accreditation programme aimed at lifting the safety performance, compliance and business efficiency of truck operators in South Africa. In this case study, a heavily state-directed programme of accreditation and compliance operating in Australia undergoes significant modification and redesign to achieve similar regulatory effects in the South African context. The case highlights how in transitioning settings the requirement to deal with local cultural and contextual issues such as corruption and weak state institutions results in innovative regulatory design. While the state remains an important player in lending legitimacy and authority to regulatory schemes, this study highlights the important role industry can play in delivering effective regulatory governance. This is a qualitative case study drawing on interviews and participant observation with industry and government officials involved in the South African trucking industry.

Following this introduction, there is a brief critique on the currency of transnational policy transfer research which then leads into a review of the corruption literature and the impact of weak state institutions and corruption on public policy and regulation. Discussion then provides an outline of the objectives and design of the South African regulatory scheme. Here the discussion notes that local context, resource constraints and regulatory capacity make simple and direct adoption of a diffused regulatory model challenging and unlikely. This is followed by a short outline of the research method before moving to an analysis and critique of the findings. The article concludes with comment on the broader implications of the findings.

## Policy transfer: an expanding field of research

A decade ago Benson and Jordan (2011) asked if scholars had learned what there is to know about policy transfer. Enthusiastic respondents argued that policy transfer was a dynamic and expanding field and there indeed remained a great deal to learn about the how, why and the consequences of circulating policies as they reassembled in new locations (Dussauge-Laguna 2012; McCann and Ward 2012). Scholars of international relations and geography have brought to the field notions of circulation, translation, mobilities and mutation (Peck 2011; Baker and Walker 2019) thus extending the analysis of policy transfer beyond rational lesson drawing and an assessment of voluntary or coercive adoption (Dolowitz and Marsh 1996; Rose 1993; Rose 2000). Continued research interest also reflects the fact that globalization and improved communication systems have simplified and expanded opportunities for policymakers to engage in networks, share information and readily visit and critique lessons learned in other locations (Stone 2017; Fritsch and Benson 2020; Temenos 2016). Thus, the circulation, interaction, advocacy and showcasing of policy innovation, reform and “best practice” continues unabated (Montero 2017; Baker et al. 2016; Pal 2012; De Francesco 2016). And while contemporary research still retains a strong case based approach (Pal 2014; Hadjiisky, Pal, and Walker 2017; Wood 2015; Foli, Béland, and Fenwick 2017) the critique of modern policy transfer is now much broader, adopting a diversity of methodologies to understand the structure and functions of transnational networks (Pal and Spence 2020; Francesco and Guaschino 2020), the influence of social norms and the role of positive dispositions embedded through cultural affiliations (Legrand 2021). A consistent critique of the field is the dominant analysis of North-North transfer extensively focused on Europe, OECD countries and international organizations (Stone, Porto de Oliveira, and Pal 2020). And while studies of North-South transfer are also well represented (Craggs and Neate 2017) an expanding and diverse body of contemporary research centred on South-South engagement has extended the field into development cooperation (Porto de Oliveira 2017; Morais de Sá e Silva 2017; Gonnet et al. 2020; Stone, Porto de Oliveira, and Pal 2020; Montero 2017). The sustained application of research in this field demonstrates the study of policy transfer continues to add value to our understanding of governance systems revealing the nuanced connections and complex actor interactions that shape policy ideas, design and implementation. There has been periodic study and analysis of the transfer of regulation and regulatory systems (Lodge 2003; Demeritt et al. 2015; Marcoux, Gomez, and Létourneau 2013; Löfgren and Webster 2009; Serrano Oswald and Burri 2020) which is characterized by an analysis of influences on regime design such as deregulation, diffusion of regulatory models and approaches to risk management. The work is almost exclusively North-North in focus and predominantly macro or meso level analysis of sector-wide regulatory frameworks. Interestingly, Löfgren and Webster note the lack of focus on regulatory implementation and the impact of context on transfer outcomes (2009, 295). Work that considers the transfer of regulatory governance in developing countries notes that transfer cannot occur between developed and developing states without adaptation (Laffont 2005). Laffont argues that policy recommendations must be sensitive to the unique features of the particular receiver country, taking into account levels of corruption, the quality of institutions and level of public funds. In a similar vein, Minogue and Carino (2006) contend that regulatory reforms introduced to developing countries designed by states in the Global North and by institutions such as the World Bank are often inappropriate and parochially conceived. The study reported in this article helps address the evident deficit in implementation analysis and is more aligned with a social constructivist critique of the “constitutive” factors that transform the

adaptation of policymaking and regulatory governance within a specific location and industry (Peck 2011, 774). Micro level studies on the transfer of regulatory schemes are limited particularly in a context where corruption and weak state institutions have an impact on translation and local implementation (Dunlop and Radaelli 2019; Hadjiisky, Pal, and Walker 2017). Empirical analysis at this micro level brings to the fore particular dynamics that challenge the achievement of effective regulation and this study aims to highlight lessons drawn from the transformation and reconstitution process, both in terms of what it might reveal for regulatory design and practice, as well as what it says about the value of transfer studies.

## Corruption and weak state institutions: implications for regulation and governance

While policy transfer research provides an important critical perspective for this study, understanding corruption and the role of weak state institutions is central to the analysis of implementation and processes that shape the reconstituting of the adopted policy. Corruption is a highly complex and powerful force with micro effects that permeate the day to day operation of services (bribes to evade or expedite regulatory processes) as well as broader structural effects that reshape systems of governance, impacting on the health of democracy and imposing a significant impediment to economic and social development (Andersson and Heywood 2009; United Nations Development Programme 2008). Traditional approaches to corruption prevention focus on the state and the establishment of good governance (Heywood 2017). This reflects the dominant understanding of corruption as “the misuse of public power, office or authority for private benefit” (Akech 2015, 6; United Nations Development Programme 1998, 6). Andersson and Heywood extend this definition noting that,

there are many different types of corruption, which vary according to the sector in which they occur (public or private; political or administrative), the actors involved (for instance, state officials, politicians, entrepreneurs and so forth), the impact they have (localised or extensive) and the degree to which they are formalised (embedded and systemic or occasional and sporadic) (2009, 749)

This explanation makes clear that practices of corruption extend across public, private and civil society settings and aligns with a contemporary understanding of what constitutes the modern state (Heywood 2017).

A common critique of regulation in the context of corruption is that regulation itself promotes corruption (Dunlop and Radaelli 2019). The argument is that bureaucratic proceduralism, discretion and excessive regulation, particularly where it is of poor quality, encourages corrupt practices (Bel 2021). Regulation that increases the frequency of interaction with bureaucrats incentivizes firms to offer bribes to minimize compliance costs (Choudhury 2020). Corrupt practices are hence considered the lesser evil to the alternative of excessive and stifling government regulation (Nur-tegin and Jakee 2020, 29). In this context bureaucratic corruption forms part of the economic and social landscape and market participants develop skills in effectively navigating and working within this environment (Prasad, Silva, and Nickow 2019, 103). This analysis would also suggest that growth in reliance on markets, programmes of deregulation and red tape reduction would therefore decrease the relevance and opportunities for corruption (Nur-tegin and Jakee 2020). In this environment options of voluntary and non-state-directed forms of regulation may be effective mechanisms for achieving compliance and avoiding the negative impacts of corruption. Interestingly, recent work on governance in “fragile states” provides guidance on how forms of compliance and regulation might be progressed in areas where weak or dysfunctional state institutions operate (Rose–Ackerman 2008; Beisheim et al. 2014; Börzel and Risse 2010, 2016; Krasner and Risse 2014; Le Billon 2008; Lindberg and Orjuela 2014; Philp 2008; Belloni and Strazzari 2014; International Bank for Reconstruction and Development / The World Bank 2019; Evans and Barakat 2012).

Börzel and Risse (2016) examine states that display limited statehood and identify examples of functional alternatives to state institutions that provide public goods and services. These equivalents can take the form of non-state actors such as non-government organizations (NGOs) and (trans)national organizations and external actors such as international organizations and foreign governments. These institutions are often informal entities that rely on trust in different forms: “personalized, group-based, and generalized trust” (Börzel and Risse 2016, 150). Börzel and Risse (2016) found that, overall, collective action problems can be overcome by institutions that build trust, stabilizing co-operation in areas of limited statehood. Personalized trust is seen to be vital in the provision of collective goods, enhancing the legitimacy of governance actors, a factor that can lead to people adhering to voluntary compliance measures. To extend governance beyond the local level this personalized trust must involve generalized trust (Börzel and Risse 2016). Generalized trust is enhanced by impartial and fair institutions at the local level, whether these entities are “state or non-state, whether provided by internal or external actors” (Börzel and Risse 2016, 156). In a similar vein, Beisheim et al. (2014, 657) argue that alongside legitimacy must be institutional design that “responds to local challenges through close monitoring, tailoring to local needs, and provision of necessary resources”. These forms of trust, legitimacy and institutional design allow non-state actors to provide social goods and services, contributing to governance in areas of limited or weak state institutions.

Various scholars and economists have put forward suggestions for how to deal with corruption (Jain 2001; Rose–Ackerman and Palifka 2016; Johnston 1997; Batabyal and Chowdhury 2015; Jain 1998; Abbink et al. 2014; Klitgaard 2000) however the general

finding is that the field is dominated by failure (Prasad, Silva, and Nickow 2019). Jain (2001) puts forward three approaches for dealing with corruption. This includes increasing the cost and risk of corruption by toughening laws; offer incentives to officials and decision-makers to not engage in corrupt practices and; increasing the role of markets and competition to reduce “the range and value of transactions that can potentially be exploited by corrupt officials” (Jain 2001, 98). This third strategy resonates with regulatory reduction strategies and increasing the role of non-state actors. In a more recent and comprehensive review of anti-corruption strategies Prasad, Silva, and Nickow (2019) offer similar advice suggesting action targeted at the individual level (incentives and penalties), the organization level (targeted analysis and action within individual agencies) and more dramatic system wide “big bang” approaches driven by crisis or urgent committed reform. This work notes that approaches to corruption vary because factors shaping and defining corruption also vary. For some cultures corruption is socially embedded and working with corruption is necessary for survival and coping with the impact of state neglect (Prasad, Silva, and Nickow 2019, 107). In other communities corruption coexists with ambiguity, often entwined with cultural norms and practices. This complex definitional understanding is explored by Al-Mutairi, Connerton, and Dingwall (2019) who study the occurrence of corruption amongst food inspectors in Saudi Arabia. In this study they argue against a homogenous conception of corruption. They propose that behaviour considered as corrupt is not always motivated by personal gain; that irregular behaviour may be closely linked to cultural understandings of responsibilities members of a society have to one another (Al-Mutairi, Connerton, and Dingwall 2019). Their study complicates straightforward readings of corruption and calls for a sensitivity to cultural contexts in assessment and responses to perceived malpractice and to the design and practice of regulation. This call for an awareness and understanding of specific cultural norms and laws is supported by Larmour (2007) in his study of anti-corruption policy transfer initiatives in the Pacific Islands. This study assessed how effective international interventions by development organizations such as the World Bank are in addressing corruption and concluded that the impact is variable (Larmour 2007).

Research suggests that voluntary regulation programmes provide opportunities for compliance to develop while less dependent on state regulatory systems that are likely to be subject to corruption. Thus, while not a direct affront to corrupt practices, voluntary regulation may help improve compliance practice within a corrupt context. Blackman (2008) and Blackman et al. (2010, 2013) have studied the introduction of voluntary regulation in developing countries, examining their effectiveness and likelihood of success. Studying a variety of schemes addressing environmental regulation, Blackman suggests that in general, developing countries use voluntary environmental initiatives to “help remedy rampant noncompliance with mandatory regulation” (2008, 120). Proponents of voluntary regulation argue that the strength of this kind of scheme is that it “sidesteps” mandatory regulation and the state institutions that manage it (Blackman 2008). This is important in the context of corruption given the general critique that increased state regulation may result in increased instances of corruption (Dunlop and Radaelli 2019). These initiatives rely on incentives that can create and enhance reputations of compliance and high standards for participating groups and firms, making them more attractive to investors and customers (Blackman 2008). Here we see how suggestions by Jain (2001) and others to increase the role of markets and market incentives to minimize options for corrupt practices might function in a regulatory context. Blackman’s work also echoes the findings of Börzel and Risse (2016) that argues non-state actors can play an important role in structuring governance processes in areas where state institutions are weak and ineffective in ensuring general compliance to rules.

Of course there remains a number of obstacles to effective voluntary schemes in developing countries including weak regulatory pressure, weak non-regulatory pressure, regulatory capture and the preponderance of small-scale firms (Blackman 2008, 121). Blackman’s (2008) review of three voluntary schemes in Mexico and India made evident that, generally speaking, voluntary regulation in developing countries is risky but not doomed to failure. In situations where both regulatory and nonregulatory pressures are lacking, voluntary regulation is unlikely to be successful (Blackman 2008). Design features including “quantified baselines and targets, transparency, monitoring and enforcement mechanisms, and individual penalties for noncompliance” are required if schemes are to be successful (Blackman 2008, 137). Blackman also concluded that national programmes have a greater chance of success than local ones as they employ a larger number of nonregulatory pressures, involve large-scale firms that can be easier to monitor than small-scale and are run by “national-level environmental authorities that usually wield a more credible threat of enforcement than local regulators” (Blackman 2008, 137–138). These are relevant findings for this study and the following section illustrates how the design of the South African accreditation programme reflects the innovative use of some of the nonregulatory pressures referred to by Blackman (2008).

## **Policy transfer and regulatory development in South Africa**

The policy and regulatory programme being transferred into South Africa originated in Australia as the National Heavy Vehicle Accreditation Scheme (NHVAS). This programme operates in Australia as an optional supplementary accreditation programme that truck operators can join to access a small range of “relaxed” regulatory limits, such as being permitted to carry additional weight. The programme operates in a similar manner to most accreditation schemes and involves firms undertaking an independent audit to have their business compliance systems and practices certified as meeting the standards specified in the accreditation programme. Once the business practices are confirmed as meeting the scheme standards, the national regulatory

authority is advised and following payment of an annual registration fee, the trucking business is permitted access to a limited range of relaxed regulatory limits. The programme effectively provides efficiency dividends to firms that engage in more transparent and rigorous compliance practices. Firms may be subject to unscheduled audits to confirm the ongoing maintenance of higher compliance standards and detected roadside breaches (overloading for example) can trigger audits, warnings, suspension or removal from the scheme. The NHVAS is considered to be an effective supplement to roadside enforcement, supports more strategic enforcement selection and has helped raise the compliance standards of the industry (Walker 2014) <sup>3</sup> *ref to be added – deleted for anonymity reasons for review process*. A detailed analysis of the process of transfer of the NHVAS programme into South Africa has previously been examined by the author. Nevertheless, it is worth noting that over a period of years (2003–2013) regular contact and collaboration between South African and Australian officials, industry representatives and researchers allowed for dialogue and the extensive exchange of information that supported the development of a new compliance programme in South Africa.

By international standards Sub-Saharan Africa is considered one of the world's most corrupt regions (Transparency International 2021). In 2021 the Transparency International (TI) Corruption Perceptions Index (CPI) ranked South Africa as the 69th most corrupt country out of 180 countries (Transparency International 2021). Although the effectiveness and appropriateness of this form of evaluation have been subject to criticism (Bhuta, Malito, and Umbach 2018; Akech 2015; Andersson and Heywood 2009; Cooley 2018; Donchev and Ujhelyi 2014; Dunlop and Radaelli 2019) the index does provide a rough and indicative picture of the severity of corruption in the public sector in South Africa (Beschel 2018). It is within this socio-political context that policy ideas on accreditation and compliance in the trucking industry were considered for transfer and adaptation from Australia to South Africa. The South African accreditation programme is known as the Road Transport Management System (RTMS). Its design reflects some of the structural principles of the Australian scheme, namely that firm entry is subject to an independent audit of business practices and systems measuring alignment to the standards required by the scheme. The South African programme measures a wider range of business systems and compliance practices and unlike the Australian scheme the RTMS has limited connections with state regulatory institutions nor offers regulatory concessions. However, what is noticeably different between the two schemes is the governance model developed and implemented in South Africa and how this draws significantly on the engagement of industry parties.

The RTMS is managed through a national steering committee that draws on a broad base of industry representation and government agencies. This includes voluntary representation from national and provincial road agencies, the national industrial research institute (CSIR – see <http://www.csir.co.za/index.html>), truck industry associations, major trucking industry operators, representatives of consignors, the banking and finance industry, the insurance industry and representation from the truck sales and manufacturing industry. While national and provincial road transport agencies support the programme, state financial resources are not provided to fund its administration. The RTMS is essentially an industry-operated self-regulation scheme where voluntary effort and membership fees are expected to cover the operational costs and administration of the scheme. The RTMS steering committee meets regularly and oversees the development of standards and other operational matters. The steering committee supports a rolling programme of workshops across South Africa that engages provincial road agencies, local trucking and business associations, and local truck industry participants. These workshops explain how the scheme works, promote the benefits of the RTMS through industry case studies, and aims to encourage and recruit membership. Scheme standards have a strong focus on improving operational safety but also contribute to efficient business practices, which is a feature derived from broader national policies regarding Black empowerment and supporting local businesses.

Unlike the Australian scheme, the RTMS does not entitle operators to regulatory concessions, though provincial governments have used membership of RTMS as a requirement for approval to operate certain nonstandard truck configurations, such as over-length car carriers. Scheme members are also likely to obtain a “wave through” at routine inspection points. Unlike NHVAS, the scheme also contains standards that apply to consignors and consignees about the manner in which they engage with road transport operators. The scheme seeks to engage firms involved in the transport chain who can have an impact on road safety, infrastructure protection and the productivity of the logistics chain, particularly through the manner in which they contract with trucking firms. For example, provincial road agencies and the RTMS steering committee have worked closely with coal, timber and sugar cane industries where consignors and receivers have sought to address safety and infrastructure concerns, such as excessive road wear through overloading and accidents associated with vehicle stability and poor maintenance (RTMS 2021 Road Transport Management System, 2012 [Q3]). The contracting framework and the behaviour of receiving depots (such as refusing to accept overloaded vehicles) can have a significant impact on the compliance practices of trucking firms. RTMS therefore, has a broader level of application and relevance to organizations engaged with road transport businesses. The operational features of the RTMS reveal a much greater interest in the relationships and influences of parties along the transport chain. Similar to insights observed by Blackman (2008), we see compliance pressures exercised through non-state actors (receiving depots, for example), predominantly drawing on market forces to focus truck operator attention on desired compliance behaviour (not to overload). Before moving to a more detailed analysis of factors that influence regulatory development in the South African trucking sector, the following section provides a brief overview of the research methodology.

## A qualitative study

This is a qualitative study that draws on data collected from key informant interviews, participant observation and the analysis of documents. Qualitative methodology is well suited to this type of research since it provides a more fluid and flexible approach and has a preference for contextual understanding (Leavy 2014; O'Leary 2017; Flick 2014; Tracy 2020). By undertaking a case study it becomes possible to analyse in detail the behaviour, ideas and responses to problems in the context of local systems and their meanings (Leavy 2014; Flick 2014; Tracy 2020; Rohlfing 2012; Yin 2012). This is particularly helpful when trying to understand factors that influence decision-making and choices about regulatory approaches. Qualitative methods and case study research are able to produce data with significant meaning from a small sample size (O'Leary 2017; Stake 2004; Tracy 2020; Gerring 2007; Yin 2012; Rohlfing 2012). This study has drawn on interview data from 12 key informants who have been active in the development and implementation of RTMS. Interviews were semi-structured following a common core of questions focused on why transport operators might be interested to join RTMS, the expected benefits, challenges and resource implications of RTMS membership, and a number of questions on risk, the role of government and key influences that shape approaches to regulation in the road transport sector. All interviewees were members of the South African RTMS Steering Committee, three from government agencies and the remaining nine from various industry bodies and private firms involved or connected with road transport. All interviews were recorded, transcribed and a detailed coding and thematic analysis were undertaken.

The author also participated as an observer at meetings of the RTMS Steering Committee and attended provincial workshops where the programme was presented to industry. This type of participant engagement and observation contributes to the qualitative method and involves a process of learning through exposure and involvement with participants in the research setting (O'Leary 2017; Schensul, Schensul, and LeCompte 1999; Marvasti 2014; Tracy 2020; Gerring 2007). This involved workshop participation and one-on-one discussions with a wider group of interested stakeholders. Participant observation was useful in this instance as it opened a space to witness phenomena that may not be mentioned or directly discussed in one-on-one interviews (Tracy 2020). This method strengthens the research validity when combined with the use of additional strategies such as interviewing and document analysis (Nandhakumar and Jones 2002; O'Leary 2017; Marvasti 2014; Gerring 2007). An analysis of observer notes from participant observations was cross-referenced with the thematic analysis of the interview data to highlight common understandings and concerns across industry participants as well as contribute to inductive analysis and theory development.

## Results and analysis: a diversity of forces shaping regulatory governance

Analysis of respondent data suggests a number of factors were considered when developing the regulatory design of RTMS. This included international influence and norms; weak state institutions and corrupt enforcement practices; a desire to establish limited but functional engagement with government; and the desire to build stronger engagement across related industries to allow the strategic use of market forces to influence and improve trucking industry compliance, safety performance and profitability. The following discussion elaborates on these factors.

### International influence and corrupt state practices drive interests in industry self-regulation

Interviewees from both industry and government occasionally referenced the growing influence of international factors in generating pressure to achieve more effective regulation of the road transport sector. Reference was made to the influence of international funding bodies for road infrastructure, the demand from European and American clients for alignment with EU standards, and the generally different international norms with regard to industry safety and compliance performance.

Local conditions, characterized by weak state institutions and petty corruption at the enforcement level, meant that achieving alignment with international norms and performance expectations was difficult without new forms of regulatory intervention. The evidence aligned with broader research that demonstrates that actor connections, personal ties and networks with non-corrupt organizations inside and outside national settings is influential in shaping interest in non-corrupt forms of governance and regulation (Prasad, Silva, and Nickow 2019, 100–101). A key concern expressed by participants was that whilst the formal regulatory framework was well designed, the experience of enforcement and compliance practice was characterized by poor implementation, weak administration and frequent corrupt interventions. One government official described sections of the enforcement system as “a value chain of fraudsters.” (I11). Here the evidence points to the contextual nature of corruption, a feature well noted in the literature when exploring the relationship of regulation with corruption (Dunlop and Radaelli 2019). A common critique was that enforcement staff had an inadequate understanding of regulations and the law and that generally enforcement actions were undertaken, “... as a coercive measure to extort bribes from operators” (I3). The endemic experience of petty corruption at the roadside meant that many operators “budget for bribes” in their pricing and operational plans (I8). Businesses reflected the characteristic skills and understanding required to successfully navigate a market environment significantly influenced by systemic corruption.

The lack of robust and credible enforcement by the state was seen to undermine efforts to lift the safety performance of the

industry. This was a key factor noted by many stakeholders who favoured the introduction of an alternative programme of voluntary self-regulation. Interviewees argued that the influence of international norms, the demands of consigners for a safer and more reliable trucking industry, and the general weakness of local enforcement systems had a significant influence on industry willingness to develop their own regulatory framework for the sector. Interest in building regulatory integrity can have value and act to differentiate firms within the market, a significant factor when working in a more globalized context. These pockets of integrity can in the long run produce change to wider industry and national practice and hence it is not surprising that government officials, who in the face of significant resource constraints supported RTMS seeing it as “part of our regulations going forward” (I11).

### **Local innovation: market incentives used to shape industry practice and interest in better compliance standards**

Recognizing the weak influence of state institutions the architects of RTMS sought to draw on other factors that were likely to shape truck operator compliance behaviour. This is where local design significantly diverged from the Australian model and observed experience. The market power of major consigners and large hauliers was drawn on to directly influence the take up of RTMS through contracts with smaller truck operators. As one industry representative observed, “if you ensure that the person receiving the load or consigning the load has a role to play ... then, yes, I think you could actually have a marked impact on regulatory non-compliance” (I3). Interestingly, stakeholders argued the programme had greater credibility where compliance was “... forced down by private industry ... not the government” (I1). Market pressure exercised by industry players was seen as an effective way of expanding the take up of RTMS and this was accepted as an appropriate “business decision”, not something imposed by government (I6). Stakeholders found market forces as acceptable agents of change, appropriate for building a localized framework of regulatory governance. This was a noted theme at regional RTMS industry workshops where presentations by local transport operators emphasized the business benefits of participation (reduced accident and maintenance costs) noting the programme was designed with significant industry input and hence new entrants could be confident the programme aligned with their specific business interests. While not explicitly stated, the emphasis on business led design and operation also signalled the evident exclusion of government officials and associated corrupt interventions.

Workshops included supplementary promotional material from truck sales and manufacturing firms (Hino/Toyota) with articles that reinforced the commercial orientation of the programme highlighting the benefits for owners and drivers and noting “... implementing RTMS makes good business sense and pays for itself ... . The bottom line is greater fleet productivity” (Hino 2013, 6). There was a high level of consistent messaging from diverse industry stakeholders that pointed to the commercial orientation and design of RTMS. This included positive statements from industry financing and insurance firms highlighting the role the scheme played in effective risk management subsequently allowing for reduced premiums and easier access to loans. One interviewee from the government sector noted the value of having industry stakeholders and transport operators present at regional workshops, “... they are more convincing in explaining to other operators how it works. They can raise the benefits for operators and their businesses that regulators wouldn’t know or understand” (I12). In the South African context, regulatory governance through RTMS effectively blends concepts of compliance and practice standards with commercial interests, particularly those that derive from effective risk management and help drive down business costs and overheads. In this case, regulatory governance becomes embedded within a firm’s internal processes that aim to address productivity and pursue commercial interests. The discipline of compliance is motivated by a firm’s self-interest and less exposed to opportunities for corruption given the absence of direct state involvement.

### **Building regulatory governance to strengthen and stabilize markets**

What was evident from discussions with stakeholders and particularly from industry and business representatives on the RTMS Steering Committee, was an understanding of the relationship between industry safety, profitability and sector-wide regulation. There was an appreciation of the role of effective regulation in moderating and managing industry-wide risk, which in turn had an impact on market stability and profitability. Interviewees referred to the early application of RTMS in narrow segments of the transport industry involving the carting of timber, sugarcane and coal. These accounts argued industry consigners and receivers such as timber mills, were concerned with the impact poor vehicle maintenance, crashes and the degradation of road infrastructure from vehicle overloading was having on business productivity. RTMS was applied as a way of regulating the supply chain to improve transport safety, productivity and increase the reliability of supply and despatch. In these specific segments of the market where contracts regulate participant entry and exit it is possible to use RTMS as a frame of governance imposing business performance standards that also align with broader public interest issues such as road safety. In these uniquely defined components of the market monopolistic contracting drives effective self-regulation and as Jain (2001) suggests, reduces corruption by excluding state officials from valuable compliance transactions.

In a similar vein, representatives from the banking and insurance sectors expressed concern that weak state institutions, ineffective regulatory intervention and the poor safety performance of the industry made the sector a high risk and potentially



less profitable business. From the perspective of these stakeholders self-regulation under the RTMS programme was seen to bring to the industry “ ... a bit of regulation which controls risk, encourages risk management ... this allows insurers to get involved a little bit more ... take a transporter and make him insurable” (I6). Similarly, banking sector representatives saw the documentary requirements of the RTMS as supplementing their own risk management approach to business investment,

... funding of their trucks is dependent on RTMS accreditation and maintaining it ... I get the full audit reports online. It deals with everything from contracts, drivers, procedures... I can see how the firm is going. Are they a good customer or risk for the bank? (I7)

In this case study associated industry interests saw their actions in promoting and enforcing forms of self-regulation as a way of making “ ... the transport industry really profitable, safe, fundable, bankable” (I7). The impact of pursuing these business interests is that desirable industry norms are reinforced and this in turn delivers wider positive social outcomes, such as improvements in industry safety. Effective forms of regulatory governance were seen as a way to stabilize and support the growth of an industry and the associated business markets, such as financing and insurance. Interest in market stability was also observed at industry workshops where there was active discussion on the value of winning significant and longer-term contracts with major consignors who were participants and supporters of the RTMS. This evidence points to the “behaviour paradox of markets”, where actors on the one hand pursue self-interest to maximize economic efficiency yet know that to sustain efficiency requires the establishment of systems that operate for a broader common good, imposing agreed rules and modes of governance (Rothstein 2011, 400). The demands of powerful market actors for particular forms of compliance effectively shape firm behaviour generating higher levels of market certainty. This promotion of compliance creates “islands of integrity” that have the potential to influence behaviour across the industry, thus further extending certainty and confidence in the operation of the sector.

### **Strengthening legitimacy and achieving symbolic support from government**

A consistent message from numerous stakeholders involved in RTMS was that the credibility of the programme was directly related to its independence from government agencies. Direct public sector agency involvement was seen as problematic and likely to allow the permeation of a similar culture that accommodates corruption. However, there was also recognition that government endorsement and some level of support was important for building the RTMS programme and strengthening its influence across the industry. While not keen to have direct government involvement in the programme, support was seen to lend credibility and legitimacy to the scheme. Here we see recognition of the authority and legitimacy of the state but also a recognition that at the operational and delivery level, the practices of the state (through its agencies) are often exposed to undue influence and manipulation. This reflects the evident tension of state regulation being both a source of effective compliance ensuring operational consistency as well as being a vehicle for bureaucratic corruption and opportunistic abuse (Dunlop and Radaelli 2019). One senior government official saw effective regulation of the sector achieved “in partnership with the private sector. Government alone can't do it” (I11). The uptake of self-regulation was considered an essential element of the regulatory system helping offset scarce enforcement resources and the effect of “rife corruption” (I11). From the industry's perspective this delicate balance of support but limited government involvement is achieved by having national agency representatives on the RTMS Steering Committee and in some provinces joint promotion initiatives are undertaken with local road authorities. These activities centre on the mutual interests of both industry and government for achieving better road asset management, road safety and industry efficiency. The record of joint initiatives in various industrial sectors (timber, coal etc) with provincial governments, receivers and consigner demonstrates the existence of these shared interests.

### **Conclusion: key lessons from transfer analysis**

The above evidence and analysis show the integration of market interests and public policy goals shaping private regulatory governance systems. By extending market interests into the voluntary self-regulation programme, RTMS is able to draw on a broader range of incentives that shape compliance behaviour. Business interests act in a manner that pushes policy goals normally pursued and enforced by the state and its agencies. In less corrupt environments robust regulation has delivered market benefits, such as the reliability of rule frameworks that reduce risk, generate stability and a range of external benefits shared by all market participants.

What we might also observe here is evidence of market evolution where norms of restraint are developed and sanctioned by market participants themselves (Abolafia 2001). The self-interest of firms simultaneously accommodates collective interest in an effort to secure the ongoing viability of markets (Rothstein 2011). In the South African context, weak state institutions and corrupt enforcement have the potential to delay and undermine the development of a stable, mature and competitively fair market. In response to these concerns and the desire to share the productive value that derives from a safer and more efficient industry we see dominant market players step in promoting wider governance norms. This action appeals to domestic interests and is particularly important where market participants have connections with a diversity of actors across global markets that tend to reinforce standards and practices to a minimum global norm (Peck, Theodore, and Brenner 2012). RTMS therefore appeals to key

actors in both the domestic and international market. Here we see states maintaining and practicing a level of interconnectedness that both transforms markets and helps promote competitiveness within a global context (Cerny 2010, 6). Important state and market actors have played a role in connecting at the local and global level so they can effectively act to reshape the regulatory governance of markets and help better manage risk and protect industry profitability.

This case study also shows that just like bureaucratic corruption, forms of regulatory governance develop in response to local context. Models of self-regulation are adaptive to local environments and the nature of incentives that shape industry participation reflects a calibration of state and market influences. While there is general consensus that corruption remains resistant to efforts to tame it, this does not prevent innovation in the development of regulation and compliance systems (Prasad, Silva, and Nickow 2019). Effective self-regulation can be deployed where state institutions are weak and corruption evident (Blackman 2008). This case provides lessons for practitioners showing that in cases where the state is unable to deliver a consistent regulatory framework, industry leaders are prepared to deliver the “regulatory effect” through other mechanisms based on self-regulation. This has occurred with guidance and input from various industry and state actors who also participate in global networks and have access to alternative frames of reference for progressing their own unique approach to industry compliance.

The South African case illustrates how regulatory governance can be industry-led and achieving this reflects a reconstitution and calibration of approaches observed in other jurisdictions. The policy transfer process has stimulated a response that is sensitive to local circumstances and practices. Unlike the Australian compliance programme the South African model makes strong calls on powerful industry participants to align the compliance of firms with specified standards that represent an agreed framework of operational and regulatory standards. The development of this unique policy model demonstrates how in transitioning economies with weak state institutions and corrupt bureaucratic practices, regulatory governance remains achievable, and can be done through programmes of voluntary self-regulation. The effort is less purposely directed as anti-corruption measures but more with a view to build regulatory governance within a system where corruption is evident. Practitioners, though, should note the evidence suggests this is not a whole of industry effect. Self-regulation has been effective in specified segments of the transport industry where regulatory tools such as contracts are able to exercise significant influence on the behaviour of parties. Defined segments where market participation in the supply chain is significantly influenced by consigners or receivers provide opportunities for the exercise of compliance control. Drawing on a state-supported programme like RTMS allows the monopolistic firm to cast a narrow **compliance** shadow across the vacated space that is traditionally occupied by the state. While not a complete regulatory solution for highly competitive markets that experience significant levels of non-compliance, self-regulation does assist with the progress of broader safety and associated policy objectives. This is particularly important as transitioning states and emerging public institutions grapple with building an ethical and robust culture that respects and enforces effective regulatory governance.

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No potential conflict of interest was reported by the author.

## Notes on contributor

**Christopher Walker** is the **Associate Deputy** Dean of University Relations and the Academic Director of the Executive Masters of Public Administration (EMPA) at the Australia and New Zealand School of Government (ANZSOG), **and Adjunct Professor, School of Government and International Relations, Griffith University, Queensland.** Prior to joining ANZSOG, Chris was the Head of the School of Social Sciences, University of New South Wales (UNSW), Australia. Chris’s work in academic leadership was preceded by a 20-year career in the Australian public service working in middle and senior executive positions in the departments of health, road transport, rail safety and Cabinet Office. Christopher has extensive research, teaching and leadership experience in the fields of strategic policy, public value, policy analysis, policy transfer, regulation and compliance. His research interests include public policy, regulation and public administration.

## Ethics approval

Human Research Ethics Committee, University of New South Wales, Approval Number: 13030.

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