Human Rights Protection: The Role of Institutional Capacity and Selective Adaptation

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Abstract

Selective adaptation describes the process by which international legal rules are contextualized to local conditions. The institutional and cultural contexts for selective adaptation involve a process by which non-local institutional practices and organizational forms are mediated by local norms. This process can be illustrated by reference to the local implementation of international human rights regimes.

Selective adaptation is made possible by ways in which governments, elites, and other interpretive communities express their own normative preferences in the course of interpretation and application of practice rules. Selective adaptation depends on a number of factors, including perception, complementarity, and legitimacy. Perception influences understanding about foreign and local norms and practices. Originally a principle of nuclear physics, complementarity describes a circumstance by which apparently contradictory phenomena can be combined in ways that preserve essential characteristics of each component and yet allow for them to operate together in a mutually reinforcing and effective manner. Legitimacy concerns the extent to which members of local communities support the purposes and consequences of selective adaptation. These three factors exercise a powerful influence on local compliance with international human rights regimes, as local...
interpretive communities endeavor to harmonize international rules with local norms.

This paper will apply selective adaptation paradigm to performance of international human rights obligations such as the right to development. The paper draws on documentary and field research in China and Asia during 2002-2004. Supported by a Major Collaborative Research Initiatives project funded by the Social Sciences and Humanities Research Council of Canada, the paper will suggest how selective adaptation affects the dynamics of the right to development, and how compliance with international human rights rules remains contextualized to local legal and political culture.

**Keywords:** Human Rights; Selective adaptation; Institutional; legitimacy.