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Why Do We Need Institutional Bypasses?

In 1997, the government of the state of São Paulo, Brazil, implemented what became one of the most successful bureaucratic reforms in the country. The *Poupatempo* (“Time Saver”), an initiative that has often received international praise, created a one-stop shop for Brazilian citizens who need documents and other governmental services. Before *Poupatempo* was created, citizens had to migrate through multiple offices scattered throughout the city, often encountering long waiting lines and a severe lack of information about requirements to obtain a wide range of services, such as identity cards, drivers’ licenses, and criminal records. *Poupatempo* changed this by placing offices of the federal, state, and, in some cases, local administration in one location that was easily accessible to the general public (normally in the vicinity of subway and bus stations). This not only reduced the citizen’s burden of commuting from one place to the next but also improved the speed and efficiency with which these services are provided by facilitating communication between the various federal, state, and local offices involved.

Poupatempo had a fast and impressive uptake. What started as a pilot project in 1997, with one unit in the capital of São Paulo, became the prevailing mode of delivery of governmental services to citizens in the state of São Paulo. There were a total of eighty-five units in the state by 2017, when *Poupatempo* was providing services to an average of 190,485 people a day.¹ The overall impact of the project was also significant: the total number of people who benefited from services provided by *Poupatempo* from 1997 to 2017 was approximately 530 million.² The project has been replicated in most Brazilian states, and it has also been exported to other countries, although its continuous expansion has raised questions about the diminishing returns of new units and raised challenges regarding its sustainability on its present scale.

¹ Portal Poupatempo, “Histórico de Atendimentos desde 1997: Dados Estatísticos,” online: www.poupatempo.sp.gov.br

² Ibid.

Poupatempo could be interpreted and analyzed simply as a case of public management and public administration reform. Indeed, one-stop shops for bureaucratic services have enjoyed a significant boom in the last decade around the world, and these projects could serve as interesting case studies of successful attempts to promote bureaucratic modernization by tailoring private-sector management techniques to the public sector, a strategy known as the New Public Management. The idea was largely influenced by the business strategies of shopping centres and supermarkets and contrasts with previous attempts at reforms in Brazil, which had focused on traditional public-sector management principles, such as hierarchical structures, anonymity of public servants, and input- and output-centred program management. By contrast, the *Poupatempo* project centred on the customer, de-emphasized hierarchy, and focused on outcomes. This shift in the focus and approach of bureaucratic reforms could serve as a potential explanation for *Poupatempo*'s success, but it is also possible that the positive results were associated with the recruitment of motivated civil servants who were granted a great deal of autonomy to improve users' experience.³

Regardless of the most compelling explanation for its success, we believe that *Poupatempo* can also offer broader insights about institutional reforms, which are relevant, but not confined, to the bureaucratic sphere. Specifically, *Poupatempo* may provide an effective strategy to overcome obstacles to institutional reforms and institutional change. Indeed, we argue that this project characterizes a type of reform that we call an "institutional bypass." Like coronary bypass surgery, in which transplanted blood vessels are needed to create a new circulatory pathway around clogged or blocked arteries, an institutional bypass creates new pathways around clogged or blocked institutions. Following this strategy, *Poupatempo* did not try to modify or reform the existing offices of the state bureaucracy. Instead, it created a parallel institution performing the same services and functions. Citizens were then offered an option: they could seek services in the pre-existing bureaucracy or in the offices of *Poupatempo*. The latter institution was vastly preferred because it offered numerous benefits over the pre-existing bureaucracy, such as shorter waiting times, convenient locations, and an efficient system of disseminating information about requirements, processing times, and fees. With increased demand for its services, the project gathered enough public support to allow for a significant expansion over a short period.

Poupatempo amounts to just one particular illustration of the many examples of institutional bypasses that one can find around the world, especially in developing countries. The concept of an institutional bypass is useful to describe a structural

³ For a description of New Public Management, as well as Judith Tendler's conception of civil servants as communitarians, presented in her widely cited book, *Good Government in the Tropics* (Baltimore: Johns Hopkins University Press, 1997), see Michael J. Trebilcock & Mariana Mota Prado, *Advanced Introduction to Law and Development* (Cheltenham, UK: Edward Elgar, 2014).

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commonality across reforms in a multitude of sectors. Bureaucratic reforms, police reforms, and education reforms are often perceived and treated as separate silos, where specialists tend to talk to each other but rarely see any value in reaching out to those working in other areas. The concept of an institutional bypass allows us to explore common elements of reforms in these different sectors, potentially creating a constructive dialogue among disciplines and areas of expertise that rarely interact with each other.

The purpose of this book is to analyze the concept of an institutional bypass, mapping its main characteristics, identifying its different configurations, and discussing its potential policy implications. From an academic perspective, the concept of a bypass may offer a descriptive tool to compare and contrast institutional reforms in different sectors. From a policy perspective, if used with full awareness of its limitations and shortcomings, an institutional bypass may prove to be a useful strategy for policymakers around the world.

1.1. INSTITUTIONS MATTER BUT ARE DIFFICULT TO REFORM

Over the past two decades or so, a consensus has emerged among development scholars and policy makers that the quality of a country's institutions (political, bureaucratic, and legal) is an important, and perhaps the major, determinant of its development trajectory.⁴ Indeed, common understandings of "failed states" focus on extreme forms of institutional dysfunction.⁵ While some scholars argue that, as a matter of historical record, economic growth has often preceded the emergence of strong institutions,⁶ it seems likely that causation runs in both directions in a virtuous feedback loop.⁷ Other scholars argue that while the quality of a country's institutions may be a proximate determinant of its development trajectory, more distal factors, including its history, geography, political economy, or culture, are important determinants of the nature and quality of a country's institutions; although it is likely again that, with respect to the latter two factors, causation runs in both directions.⁸ While they may not be the sole variable in determining development

⁴ Trebilcock & Prado, *supra* note 3 at ch. 3.

⁵ Paul Collier, *The Bottom Billion: Why the Poorest Countries Are Failing and What Can Be Done about It* (New York: Oxford University Press, 2008).

⁶ Edward Glaeser, Rafael La Porta, Florencio de Silanes, & Andrei Shleifer, "Do Institutions Cause Growth?" (2004) 9:3 *J Econ Growth* 271; Dani Rodrik, "Institutions for High-Quality Growth: What They Are and How to Acquire Them" (2000) 35:3 *Stud in Comp Int'l Dev* 3.

⁷ See Daniel Kaufmann, "Governance Redux: The Empirical Challenge" in Xavier Sala-i-Martin, ed., *The Global Competitiveness Report 2003–2004* (New York: Oxford University Press, 2004).

⁸ Amir Licht, Chana Goldschmidt, & Shalom Schwartz, "Culture Rules: The Foundations of the Rule of Law and Other Norms of Governance" (2007) 35:4 *J Comp Econ* at 659; Daron Acemoglu & James Robinson, *Why Nations Fail: The Origins of Power, Prosperity, and Poverty* (New York: Crown Publishing, 2012); Daron Acemoglu, Simon Johnson, & James Robinson, "The Colonial Origins of Comparative Development: An Empirical Investigation" (2001) 91:5 *Am Econ Rev* 1369–1401; Daron Acemoglu, Simon Johnson, & James Robinson, "An African Success Story: Botswana" in

outcomes, there is strong evidence to support the idea that institutions do influence a country's development trajectory.⁹ Even if one is skeptical of causal connections between institutional arrangements and development outcomes, one may embrace the idea that institutions matter for development because they are an end in and of themselves, as many proponents of the rule of law and democracy would argue.¹⁰ Subject to these caveats, our starting assumption is that “institutions matter” – or “governance matters” – for development.

While adopting this starting assumption, we acknowledge that over the past two decades the record of mostly external donor-promoted institutional reforms in developing countries has been mixed to weak. Despite initial euphoria about the importance of institutions for development and the investment of billions of dollars in institutional reforms, cases of successful institutional change have been more the exception than the rule. Whether one focuses on attempts to promote democracy, a more robust commitment to the rule of law, or a more competent and less corrupt public administration, the mixed record of successes and failures yields a sober assessment of the challenges of institutional reform.¹¹ Indeed, state capability appears to have declined in many developing countries in recent years.¹²

Part of the challenge in reforming dysfunctional institutions is the lack of a “one-size fits all” formula. While blueprints for institutional design have been a common practice in the development field, a consensus is now emerging among development scholars (and to a lesser extent official development agencies) that contextual factors are of overriding importance in defining both the appropriate ends of development and feasible strategies for attaining them. In particular, it has come to be widely recognized that the specificities of a given country's history, culture, geography, political evolution, economic structure, ethnic, religious, and demographic

Dani Rodrik, ed., *In Search of Prosperity: Analytic Narratives on Economic Growth* (Princeton, NJ: Princeton University Press, 2003); John Gallop, Jeffrey Sachs, & Andrew Mellinger, “Geography and Development” (1999) 22:2 *Int'l Regional Sci Rev* 179; Daron Acemoglu, James Robinson, & Simon Johnson, “Reversal of Fortune: Geography and Institutions in the Making of Modern Income Distribution” (2002) 117:4 *QJ Econ* 1231–1294; Alberto Alesina & Paolo Giuliano, “Culture and Institutions” (2015) 53 *J Econ Lit* 898.

⁹ Dani Rodrik, Arvind Subramanian, & Francesco Trebbi, “Institutions Rule: The Primacy of Institutions Over Geography and Integration in Economic Development” (2004) 9:2 *J Econ Growth* 131–165; Edinaldo Tebaldi & Ramesh Mohan, “Institutions and Poverty” (2010) 46:6 *J Dev Stud* 1047–1066; Janet Aron, “Growth and Institutions: A Review of the Evidence” (2000) 15:1 *World Bank Research Observer* 99; World Bank, *World Development Report 2017: Governance and the Law* (Washington, DC: World Bank Group, 2017).

¹⁰ Indeed, this point is at the core of Sen's argument to conceptualize development as freedom rather than economic growth; see Amartya Sen, *Development as Freedom* (New York: Anchor Books, 2000).

¹¹ Michael J. Trebilcock & Ronald Daniels, *Rule of Law Reform and Development: Charting the Fragile Path of Progress* (Cheltenham, UK: Edward Elgar, 2008); Matt Andrews, *The Limits of Institutional Reform in Development* (New York: Cambridge University Press, 2013).

¹² See Matt Andrews, Lant Pritchett, & Michael Woolcock, *Building State Capability: Evidence, Analysis, Action* (Oxford, UK: Oxford University Press, 2017); World Development Report 2017, *supra* note 9 at ch. 1.

makeup, as well as a host of other country-specific features, will, to a large degree, shape what is both desirable and feasible as a set of development strategies for that particular country.¹³

An overarching theme running through much of this recent scholarship is that path dependence is a major constraint, both on the desirable ends of development and the feasible means of achieving them.¹⁴ This concept helps to explain how institutions (or networks of institutions) take shape through self-reinforcing mechanisms and why – as a consequence – they are difficult to change. The key insight associated with path dependence is that, under certain conditions, economic and other activities may be subject to increasing returns, whereby the benefits of engaging in them increase rather than decrease over time. As more and more people invest in a given way of doing things, these investments – of time, money, skills, and expectations – cumulate and, as a consequence, the relative cost of exploring alternatives steadily rises. A simple model of path dependence would therefore emphasize three features of an arrangement: (1) an initial set of choices or random events that determine the starting position, (2) the subsequent reinforcement of those choices or events through “feedback effects,” and (3) the degree to which switching costs may preclude good alternatives from being explored in the long run.

Self-reinforcement mechanisms increase switching costs, locking in certain legal, political, and institutional arrangements. In addition, mutually reinforcing mechanisms suggest that institutional interdependencies that are the historical legacy of myriad past events may undermine the success of nodal institutional reforms, implying that we cannot easily modify any of these institutions in isolation. However, path dependence is not entirely deterministic, in that it recognizes the notion of “critical junctures” – interaction effects between distinct causal sequences that conjoin at particular points in time – that place institutional arrangements on particular paths or trajectories. The literature recognizes that critical junctures may be either

¹³ See e.g. Dani Rodrik, *One Economics, Many Recipes: Globalization, Institutions, and Economic Growth* (Princeton, NJ: Princeton University Press, 2007); Lindsey Carson & Ronald J. Daniels, “The Persistent Dilemmas of Development: The Next Fifty Years” (2010) 60:2 *UTLJ Law* 491; Andrews, *supra* note 11; Thomas Carothers & Diane de Gramont, *Development Aid Confronts Politics: The Almost Revolution* (Washington, DC: Carnegie Endowment for International Peace, 2013); William Easterly, *The Tyranny of Experts: Economists, Dictators, and the Forgotten Rights of the Poor* (New York: Basic Books, 2013); Ben Ramalingam, *Aid on the Edge of Chaos: Rethinking International Cooperation in a Complex World* (Oxford, UK: Oxford University Press, 2013); Brian Levy, *Working with the Grain: Integrating Governance and Growth in Development Strategies* (New York: Oxford University Press, 2014); Andrews, Pritchett, & Woolcock, *supra* note 12; World Development Report 2017, *supra* note 9.

¹⁴ See Douglass North, *Institutions, Institutional Change, and Economic Performance* (Cambridge, UK: Cambridge University Press, 1990); Douglass North, *Understanding the Process of Economic Change* (Princeton, NJ: Princeton University Press, 2005); Paul Pierson, “Increasing Returns, Path Dependence and the Study of Politics” (2000) 94:2 *Am Political Sci Rev* 251; Mariana Mota Prado & Michael J. Trebilcock, “Path Dependence, Development, and the Dynamics of Institutional Reform” (2009) 59:3 *UTLJ* 341.

cathartic events in a country's history or minor perturbations that precipitate cumulative effects that place a country on a new or modified trajectory. Unfortunately, "critical junctures" are difficult to define prospectively, or even to identify with high levels of confidence while they are happening, without the benefit of hindsight in terms of the feedback effects that they trigger.

In contrast to this pessimistic view of the stability of institutions – even dysfunctional institutions – and their impermeability to change, a strand of literature emphasizes the incremental nature of policy reform and institutional change. In a book entitled *Explaining Institutional Change: Ambiguity, Agency and Power*,¹⁵ James Mahoney and Kathleen Thelen argue that incremental institutional change is often endogenous, in contrast to the exogenous shocks seemingly required to disrupt institutional stability (punctuated equilibria) in more austere versions of path dependence. They argue in their introductory essay that changing coalitions of interests and dynamics of political mobilization may make one or more of these strategies feasible where wholesale reform may not be. This argument has challenged or at least heavily qualified the more pessimistic view of institutional change reflected in the concept of path dependence.

The assumption that gradual institutional change can produce significant transformations over time informs a vast body of literature, which includes areas as diverse as public policy,¹⁶ development,¹⁷ public administration,¹⁸ and state/urban planning.¹⁹

1.2. INSTITUTIONAL BYPASSES: EMBRACING INCREMENTALISM

Institutional bypasses, which are the central focus of this book, fit comfortably within this view of incremental institutional change. As described earlier, an institutional bypass does not try to modify, change, or reform existing institutions – at least in the first instance – and hence has a more incremental character than "root and branch," top-down institutional reforms that more squarely challenge the status quo. These more traditional reforms are likely to confront the dual problems

¹⁵ James Mahoney & Kathleen Thelen, eds., *Explaining Institutional Change: Ambiguity, Agency, and Power* (Cambridge, UK: Cambridge University Press, 2010); Kathleen Thelen, *How Institutions Evolve: The Political Economy of Skills in Germany, Britain, the United States and Japan* (New York: Cambridge University Press, 2004).

¹⁶ Michael J. Trebilcock, *Dealing with Losers: The Political Economy of Policy Transitions* (New York: Oxford University Press, 2014).

¹⁷ See e.g. Levy, *supra* note 13; William Easterly, *The White Man's Burden* (New York: Penguin Books, 2006).

¹⁸ See e.g. Charles Lindblom, "The Science of 'Muddling Through'" (1959) 19:2 *Pub Admin Rev* 79.

¹⁹ James Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven, CT: Yale University Press, 1998); Donald A. Schon, *The Reflective Practitioner: How Professionals Think in Action* (London, UK: Temple Smith, 1983); Bishwapriya Sanyal, Lawrence J. Vale, & Christina D. Rosan, eds., *Planning Ideas That Matter: Livability, Territoriality, Governance, and Reflective Practice* (Cambridge, MA: MIT Press, 2012).

of opposition from entrenched interests and genuine uncertainty about the likely impact of drastic reforms. In contrast, a bypass seeks to create a new pathway around existing institutions in an incremental, trial-and-error fashion in which functionality can be enhanced.

By creating a separate institution that operates in parallel with the dysfunctional institution, bypasses create a very different political dynamic compared to reforms implemented within existing institutions. While reforms of an existing institution would require reformers to engage in a negotiation process with those resisting changes to the status quo, the bypass allows them mostly to avoid engaging directly in such a negotiation process. This happens because the bypass does not modify the existing institutions. If the reforms were focused on the existing institution, in contrast, certain actors would have significantly greater ability and incentives to resist change.

Due to their design, institutional bypasses may be an especially effective mechanism to overcome self-interested resistance to reforms. People may resist modifications to existing institutions if these are likely to force them to internalize the costs of changing existing practices or attitudes. Another type of resistance is related to reforms that will impair rent-seeking activities. For instance, people who pay or receive bribes may actively resist anticorruption reforms that may deprive them of the rents associated with bribery.

Both kinds of resistance can be observed in the *Poupatempo* case. For some of the services, some civil servants resisted the creation of *Poupatempo* due to rent seeking, that is, when they stood to lose some benefit (financial or otherwise) from having services transferred to *Poupatempo*. Indeed, the creation of the project triggered resistance from corrupt bureaucrats who either received bribes to expedite the process of issuing documents, or were making money by selling falsified documents. In addition to the pre-existing bureaucracy, the government faced resistance from other interest groups. In particular, there was significant resistance from business professionals who offered services connected with bureaucratic services. For instance, doctors who provided medical examinations for drivers' licenses lobbied against offering them at the *Poupatempo* units because that would imply that civil servant doctors, working for the Brazilian public health system, would perform the examination *in loco* (expediting the services and reducing the time required for citizens to get their licenses issued). Another example is the middlemen with personal networks in the bureaucracy that offered expedited services for a fee (*despachantes*), often sharing a percentage of the fee paid with the bureaucrat who processed the paperwork. Users who were able to pay this fee would have their application processed faster through the back door. These groups strongly lobbied against *Poupatempo* issuing drivers' licenses, as it could potentially terminate their main (and perhaps only) source of income. Despite this resistance, the service was implemented in all *Poupatempo* units. Although this is counterfactual, our hypothesis is that these kinds of resistance could have been fiercer if reforms were implemented internally, rather than through a bypass.

That being said, institutional bypasses are not the only strategy to overcome these types of resistance to reforms. Another strategy is to strengthen interest groups that will benefit from the reforms, making them better able to press for change.²⁰ If this strategy is successful, it may be possible to implement internal reforms, and an institutional bypass will not be necessary. However, there is no assurance that those promoting change will not be overwhelmed by those resisting it. One possible obstacle to empowering beneficiaries to overcome rent seekers' resistance is a basic collective action problem. For example, imagine a country where citizens could benefit from faster and better bureaucratic services. At the same time, actors within a bureaucracy may not see changes to the current institutional arrangement as beneficial to them. Bureaucrats may earn additional income from discretionary schemes that allow for corruption and may resist any reform effort that could deprive them of these rents. Additionally, these bureaucrats may not want to employ greater effort and increase their workload if a reform increases the pace of processing requests for services.

This example illustrates that the dynamic of resistance to reforms may be hard to overcome, as often there are two very distinct interest groups. On one hand, there is a scattered, unorganized mass of citizens who could largely benefit from reforms. This group faces high transaction costs to organize and demand changes, and hence faces major collective action problems. On the other hand, there will be a small group of civil servants concentrated in one place or agency. Members of this group can effectively organize against the reform and strongly promote their preferences at much lower cost. The difference in costs makes it much easier for those resisting reforms to succeed. The prediction is that institutional reforms will only happen if the group demanding reforms has more power and influence or if there is a critical juncture (i.e., an external event that destabilizes the current arrangement, such as a war or a major political crisis). In most contexts, empowering the group that desires reforms and weakening the group that does not can be a formidable challenge.

Thus, one of the advantages of bypasses is that they do not change existing institutions, and therefore maintain the status quo from the point of view of those who benefit from it (e.g., the bureaucrats and private parties with corrupt relationships with them). To be sure, some level of cooperation by those inside the pre-existing institution in the design and implementation of bypasses may often be necessary. If nothing else, reformers will at least need information about internal processes and mechanisms that will help them identify problems and try to design solutions to fix them. This can be provided by a small group of people, or even one individual in some cases. This level of cooperation is much less than would be required if one attempted to reform the existing institution, where those opposing the reform could stall or boycott the design and/or implementation of reforms. As a consequence, bypasses face lower risks of being affected by the kind of strong reaction that is often

²⁰ Trebilcock & Daniels, *supra* note 11 at 354.

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elicited by reforms that will directly and immediately affect existing institutions and those connected to (and benefiting from) them.

While maintaining the status quo from the point of view of self-interested groups, an institutional bypass will create choices from the point of view of the users. Once the bypass is created, those who are unhappy with the existing provision of public services can opt out of the existing system at any time. There is no collective action problem, as the decision is individualized. Those who want to continue using the old system retain the option to do so.

1.3. INSTITUTIONAL BYPASSES: CREATING
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Another advantage of institutional bypasses is that they create room for experimentation. Currently, there are few tools that can help reformers understand and predict, let alone control, all dimensions of institutional change. As a consequence, outcomes of reforms are often highly uncertain. Could we address these problems stemming from the uncertainty and risk related to the outcome of reforms by producing more information about outcomes? There is a great deal of uncertainty as to whether or not we can ever capture and systematize this knowledge in a way that allows us to predict with a high level of certainty the outcomes of reforms. Many scholars have supported the idea that academic studies need to acknowledge the complexity of exogenous and endogenous determinants of institutions and develop effective methods to investigate them.²¹ The question is whether it is possible to ever perform this investigation with a level of certainty that would increase the chances of reforms succeeding.

At least part of this uncertainty comes from the fact that formal institutions – where most reform efforts are focused – are influenced by a set of social, cultural, and historical factors. These factors are sometimes referred to as informal institutions,²² and they present a unique set of challenges to reformers, as it is hard to predict how they will interact with formal changes and the outcome of the resulting dynamic. Thus, these informal rules and norms have been called “the black box” of institutional change.²³ While it is almost intuitive to say that these informal institutions, such as cultural norms and values, play a role in influencing human behaviour, until recently very little attention had been paid to their actual role in institutional change.²⁴ The recognition of the importance of informal institutions may incentivize

²¹ See e.g. Daron Acemoglu & Simon Johnson, “Unbundling Institutions” (2005) 113:5 *J Political Econ* 949.

²² North, *Process of Economic Change*, *supra* note 14.

²³ Licht, Goldschmidt, & Schwartz, *supra* note 8.

²⁴ Amartya Sen, “How Does Culture Matter?” in Vijayendra Rao & Michael Walton, eds., *Culture and Public Action* (Stanford, CA: Stanford University Press, 2004). But see Alesina & Giuliano, *supra* note 8.

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more rigorous attempts to systematize and generate knowledge about the complex interaction between formal and informal institutions. Nevertheless, they may still be plagued with uncertainties, as complex social determinants of institutional arrangements are rarely amenable to a few simplified algorithms.²⁵

Many scholars argue that the solution to this conundrum is experimentation, that is, the only way to determine whether or not a reform will work is by testing it empirically.²⁶ Experimentation offers the possibility of generating information that is helpful to reformers and could potentially dispel resistance from fear of uncertainties related to the possible outcomes. Uncertain as to whether they will be among the winners or the losers, or uncertain as to whether the overall society will benefit from reforms, some interest groups may adopt a risk-averse position, resisting change. More than that, experimentation with positive results can actually generate political support from those who are assured that the benefits of reforms will outweigh their costs. In other words, experimentation creates demonstration effects. Those who are afraid of change can observe concrete results before deciding whether or not to support full-scale reforms. This is often touted as one of the advantages of pilot projects, and is also a feature of institutional bypasses. In both cases, undoing or abandoning the pilot project or the bypass will not generate significant disruption because the original institution has been left untouched. This makes these strategies highly reversible. Because it does not change the pre-existing institution, an institutional bypass can be structured such that it can be quickly abandoned if unsuccessful without having much impact on the status quo.

An institutional bypass allows for direct experimentation because it offers the same services to the same users that use the dysfunctional institution. Thus, the experiment is based on the actual conditions under which a reformed institution would operate. This is an important contrast with an experiment that is conducted in a lab or located in a distinct geographic location (another city, institution, or country), as such experiments do not guarantee that the same results will be achieved once transplanted elsewhere. Some scholars, including ourselves, have argued that countries should explore institutional reforms in locations with similar socio-cultural-historical circumstances to those where the reform is being implemented.²⁷ This approach

²⁵ See Eric Helland & Jonathan Klick, “Legal Origins and Empirical Credibility” in Michael Faure & Jan Smits, eds., *Does Law Matter? On Law and Economic Growth* (Antwerp, Belgium: Intersentia, 2011) at 99 for a criticism of the legal origins literature and other attempts to capture these dynamics through quantitative analyses.

²⁶ Michael C. Dorf & Charles Sabel, “A Constitution of Democratic Experimentalism” (1998) 98:2 *Colum L Rev* 267; Charles Sabel, “Dewey, Democracy and Democratic Experimentalism” (2012) 9:2 *Contemp Pragmatism* 35; Abhijit Banerjee & Esther Duflo, *Poor Economics: A Radical Rethinking of the Way to Fight Global Poverty* (New York: Public Affairs, 2011); Andrews, *supra* note 11; Gráinne De Búrca, Robert O. Keohane, & Charles Sabel, “Global Experimentalist Governance” (2014) 44:3 *Br J Polit Sci* 477; Deval Desai & Michael Woolcock, “Experimental Justice Reform: Lessons from the World Bank and Beyond” (2015) 11:1 *Ann Rev L & Soc Sci* 155; Andrews, Pritchett, & Woolcock, *supra* note 12.

²⁷ Michael J. Trebilcock & Mariana Mota Prado, *What Makes Poor Countries Poor?* (Cheltenham, UK: Edward Elgar, 2011).