Legal Transplant of Undue Influence: Lost in Translation or a Working Misunderstanding

Mindy Chen-Wishart

Is legal transplant possible? The stark bipolarity of a ‘yes’ or ‘no’ answer is much less interesting and revealing than the question: what shapes the life of legal transplants? The answer to this question is contingent on a wide range of variables triggered by the particular transplant; the result can occupy any point along a spectrum from faithful replication to outright rejection. This case study of the transplant of the English doctrine of undue influence into Singaporean law asks why the Singaporean courts have applied the doctrine in family guarantee cases to such divergent effect, when they profess to apply the same law. The answer owes less to grand theories than to a careful examination of the formal and informal legal orders of the originating and the recipient society raised by the particular transplant.