The impact of social context on outcomes of land registration systems – An analytical framework

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ABSTRACT

Empirical research in a number of developing economies including those in Sub-Saharan Africa (SSA) continues to show mixed or inconclusive outcomes from the implementation and operations of formal land registration systems. In spite of existing knowledge of certain deficiencies, a clear road map for improving the outcomes and performance of land registration and cadastral systems continues to prove elusive. The study adopts and extends an analytical framework that incorporates elements of the concept of social capital in order to identify relevant linkages to the social context of a jurisdiction. The framework can facilitate empirical examination of context-specific factors that could create barriers to the effective provision of relevant land information management by urban land registration systems.

Key words: Social Capital, land tenure, land registration, land information, land market.

INTRODUCTION

Many governments across Sub-Saharan Africa (SSA) are in the process of introducing or improving land registration and formal titling systems (Manthorpe, 2003; Palmer, 1999). One of the stated aims of this process is to achieve modern land information management in order to facilitate the development of the land market (Dale et al., 2010). The new formal systems are often part of land reform programmes sponsored by development agencies such as the World Bank and the other bilateral and multilateral development partners (Burns, 2007; Deininger and Feder, 2009).

It is often assumed that, because formal systems and institutions have enjoyed some positive outcomes in terms of realising wealth in developed countries, they will succeed equally well in developing economies (Pessali, 2011). However, evidence from empirical research in a number of developing economies including those in SSA continues to show mixed or inconclusive outcomes from the implementation and operations of such systems. While some studies point to positive links between land titling and access to credit (Feder and Nishio, 1998), others show inconclusive results (Besley, 1995; Payne, Durand-Lasserve and Rakodi, 2009), or negative outcomes such as the curtailment of rights of the marginalized and vulnerable through abuse of the system by the elite (Blocher, 2006; Toulmin, 2009). Toulmin et al. (2002), further suggest that modern land registration systems cannot easily handle multiple rights in the same piece of land. Consequently, such systems are not able to provide adequately the information needed for rational decision-making where multiple rights commonly exist (Fourie and Nino-Fluck, 2000). In some cases, the information they produce may be inconsistent with the situation on the ground (Hammond, 2006), which is primarily due to their inability to capture and update subsequent transactions (Platteau, 2000).

Various reasons have been suggested for such deficiencies in land registration systems. First, introduced land registration systems typically emerged out of historical accidents and are not specifically designed to bridge the gaps in real estate information (Bruce and Migot-Adholla, 1994; Hammond, 2006; Meek, 1949). Second, dysfunctional legal regimes in many developing countries make it almost
impossible for such systems to operate effectively (Bromley, 2009). Third, unclear and often conflicting institutional mandates of the multiple agencies involved in the land title registration process often undermine the systems and leave users confused and sometimes disappointed and disillusioned (Antwi, 2000). Fourth, design and operational inadequacies of the systems have been blamed for negative outcomes (Kanji et al., 2005). Fifth, their focus appears to have been limited to facilitating the conveyancing system to the neglect of other important considerations, such as their information management aspects (Nichols, 1993; Nichols and McLaughin, 1990).

Despite the existing knowledge of the above deficiencies, a clear roadmap for improving the outcomes and performance of land registration and cadastral systems continues to prove elusive.

**Problem statement**

During the introduction and improvement of formal land registration and cadastral systems, little attention is typically given to examining the nature of any persisting social institutions that underpin prevailing customary land tenure practices. However, for introduced formal systems to succeed in providing the relevant information needed for the development of a viable urban real estate market, it is essential to examine the socio-political organisational structures and social context that underpin the prevailing customary land tenure practices.

Socio-political structures and social context have been shown to impact significantly on the introduction and outcomes of formal systems. For example, findings from the seminal study by Putnam (1993) showed that the prevailing differences in social capital between northern and southern Italy had an impact on the performance of the regional governments established in 1970. The concept of social capital describes aspects of a society’s social structure that influence the performance of its institutions. Putnam (1993: 182) pointed out that “social context and history profoundly condition the effectiveness of institutions”. Treblcock and Veel (2008) further suggested that, for a given formal property right regime to be well established, it must to a large extent conform to the prevailing social norms and customs within a jurisdiction. Barry and Fourie (2002) concurred, attributing the challenges faced in the implementation of cadastral systems to the lack of adequate consideration of peculiar social and political complexity of the context within which they function.

The above observations are particularly important given that in most countries in SSA, customary land institutions and processes continue to contribute significantly to the operation and outcomes of urban and peri-urban land markets. For instance, it is estimated that 80% of the land area in SSA is under the control of the customary sector (Augustinus, 2003), and between 70% to 90% of participants in the land market rely on processes involving customary institutions to access information about land when making real estate decisions (Antwi, 2000; Knight, 2010; Nkurunziza, 2008).

Besides the significant role of customary land institutions, the property rights allocated or alienated to market participants are socially embedded and defined by a social contract regarding access to and use of resources (Cousins, 2007; Lund, 2000). The property rights may further be nested into each other and into larger diverse and dynamic social institutions which include membership and status in social units such as the extended family or lineage system, chieftaincy regime, marriage and miscellaneous alliances (Berry, 1989; Diaw, 2005; Ezigbalike and Selebalo, 1999). The social embeddedness of the land tenure arrangement means that the nature of the socio-political organisational structures, values and practices of particular social units may either constrain or facilitate the allocation of and access to land resources. This may in turn impact on the operation of the formal land registration and cadastral system, because only the property rights allocated within a land tenure regime are recorded in the formal system. Therefore, to deal effectively with the land information challenge, the complicating factors influencing a customary land tenure system must be identified and closely studied.

**Aim and objectives**

The aim of this study is to develop an analytical/conceptual framework that can facilitate understanding of the impact of socio-cultural differences underlying land tenure systems in SSA countries on the operations of its urban land registration systems.

**CONCEPTUAL DISCUSSION**

To facilitate understanding how elements within the social context influence the outcomes of formal institutions this subsection establishes the conceptual linkages between institutions and the social organisation or structure of a society in order. The section examines key aspects of the concept of ‘social capital’ and their significance in explaining how elements of the social context can shape institutional development and produce different outcomes.

**Social capital and outcomes**

The concept of social capital has gained prominence in explaining how the social context of a society can influence different outcomes. The concept describes aspects of society’s social structure that influence the performance of its institutions. However, the growing application of social capital is notorious for the diversity of its definition. For
aggregate of the actual exist in a society. The key elements of social life that can be drawn upon to improve individual and collective well-being. To clarify the contributions to these elements, (b) the connections among the elements, and (c) the consequences that can be attributed to these elements and their interaction (Uphoff, 2000: 217 emphasis in original). Thus, two different but interrelated components of social capital are identified in the literature, namely a structural and a cognitive component. These two components encompass the constituent elements of social capital and are relevant.

The structural and cognitive aspects of the concept are useful for understanding how socio-political organisational structures that underpin land tenure systems, such as those in SSA, influence outcomes. The structural component relates to the tangible and observable aspects of social interactions, such as roles, rules, precedents, and procedures and the cognitive component refers to intangible and qualitative factors that govern social relations, such as values, norms and customs (Stone, 2001; Uphoff, 2000). It is argued in the literature that it is the interactions between these two components which define, shape or limit institutional outcomes that are either positive or negative (Rostila, 2010: 14; Stone, 2001: 4; Uphoff and Wijayaratna, 2000).

Consequently, to facilitate an empirical investigation of how the elements within the cognitive and structural components of social capital may impede or facilitate the process of institutional development and its outcomes, a clear understanding of the interdependence between the social organisation or structure of a society and its institutions is required. Understanding the interdependence is important because a society is organised in terms of the position and roles of authority figures, and the nature of the rules, customs and norms governing social relations, can have varying impacts on institutional development and outcomes. The understanding therefore clarifies the mechanism through which different institutional outcomes may occur. To clarify the mechanism, social life is conceptually distinguished into its symbolic and material elements, and the relationship between them. Based on this distinction, the interdependence between social organisation and institutions is established and discussed.

A conceptual distinction of social life is necessary to facilitate understanding the interrelationships among the diverse elements of social capital. The conceptual distinction is achieved by recognising that various elements of social life can be distinguished between the symbolic realm and the material reality (Portes, 2006). Even though social life may consist of culture and social structure, this is not always obvious (Porpora, 2002; Portes, 2006). The distinction is obscured because both aspects of social life work together to establish the types of acceptable and unacceptable relationships that exist in a society (Bada, 2003). However, Portes (2006) shows that the elements of culture constitute the symbolic realm of social life, whilst elements of social structure make up the material reality of social life. Particularly, the relevant elements of culture that underpin social relations, mutual understanding, and order include the (a) values, (b) norms, and (c) body of knowledge required to exist in a society. The key elements of social structure that are observable parts of social life include (a) power structures, (b) class structure and (c) status hierarchies or positions in a society (Portes, 2006).

Social structure depicts the actual network of social relationships of individuals as they interact with each other according to their social roles and status within the patterns of society (Nadel, 1957; Radcliffe-Brown, 1952). The above distinction of social life coincides respectively with the cognitive and structural components of the
concept of social capital discussed earlier. Establishing this distinction facilitates understanding the differences that occur between what is generally agreed to by society and what actually takes place (Portes, 2006).

To determine their causal influences, the distinction is followed by arranging the elements of social life into their hierarchical characteristics. The conceptual arrangement, shown in Figure 1, represents the relationships among the elements of social life. The components of the arrangement are (1) the symbolic realm of culture, (2) the material reality of social structure and (3) the level of causal influences of various elements. The symbolic elements include the values, norms, and skills repertoire or body of knowledge and roles, whilst the material components include power, class structure, and status hierarchies or positions.

The elements of the symbolic and material components of the framework are arranged in terms of their causal influence from 'deep' to 'surface' or visible factors. The 'deep' factors, such as values and power, even though fundamental to social life, are not obvious in everyday life, whilst the 'surface' factors, such as roles and status hierarchies, are the visible aspects of social life (Portes, 2006). The directions of the arrows in the diagram show the hypothesised causal influences of the various elements (Portes, 2006). For instance, on the symbolic side of Figure 1, values influence norms and skills repertoire, whilst on the material side, power structures shape the class structure of society. The detailed causal influences of the elements of the framework and their implications are discussed in the following paragraphs.

The symbolic realm component of Figure 1 shows that values are at the core of culture. Licht (2008: 728) has argued that values provide the “abstract ideas about what is good, right, and desirable in a society” and are shared implicitly or explicitly among members of a society. In other words, values provide general moral principles, such as what is good or desired. As such, values can be inferred from everyday behaviour and they underlie the norms and the skill repertoire or the body of knowledge of a society (Igboin, 2011; Portes, 2006). Hence, values or principles are fundamental in understanding what goes in any aspect of social life and consequently they can facilitate an understanding of differences in societies.

Norms are fundamentally the rules that guide members of a society in their day-to-day activities. Scott (2011: 152) defined norms as the “internalised cultural standards of conduct that specify the expected or approved ways of pursuing culturally defined goals and so regulate the ways in which people behave in relation to these goals”. Stated differently, norms provide the expectations that others will do what is right and reflect the cultural values of the society (Portes, 2006). Consequently, norms are pervasive, affecting all spheres of social life. A distinction can be made between legal norms, which are codified, and customary norms, which are unwritten and frequently obscure (Scott, 2011: 152).

Hence, norms may be both the formal and informal rules that guide everyday life. When norms are stable, generally acceptable, and internalised by the society, they can be referred to as customs or conventions (Scott, 2011). According to Portes (2006) norms are not ‘free-floating’, but they come together in organised forms as “roles” which are at the visible level of the symbolic realm, shown in Figure 1.

Roles are the set of behaviours that are prescribed for individuals filling particular social positions (Scott, 2011), such as traditional rulers within African society or various types of officers within a formal organisation. For instance, with particular reference to the role of traditional rulers in Ghana, Brempong (2006: 27) outlined a wide range of expectations such as undertaking socio-economic development in localities not covered by central or local government; maintaining law and order through arbitration, invoking the time-honoured values of their political communities. Even though the expectations of traditional rulers span the cultural, political, and economic spheres, role expectations are generally context-specific because they are shaped by the normative values and norms that exist in a particular society. Hence, the role of a chief in one traditional area may be different in another. Similarly, the role of the registrar in a land registration system can differ between different countries.

Having outlined and discussed the elements of the component of the symbolic realm in Figure 1, attention is now turned to the elements of the material reality component. The material realm of a society addresses the varying influences of the interests of individuals and groups with varying degrees of power. As shown Figure 1, the key elements of social structure consist of power, social class, and status hierarchies. These elements are also arranged in hierarchical order of causal influence and correspond to the elements of the symbolic realm.

At the deep level of social structure is the power that persons possess to coerce others. Power is a basic element of social structure and may be defined as “the ability of an actor to impose his or her will despite resistance” (Portes, 2006: 239). For instance, elites in society who have power over resources will usually want to maintain the status quo and will often seek to change societal values so that others will accept a given situation as appropriate (Portes, 2006).

Stated differently, persons who are committed to certain values or interests, use their authority or legitimate power to maintain practices or structures that are beneficial to them. Hence, power plays a critical role in the historical preservation of patterns of societal values (Powell, 1991).

The class structure usually reflects the power differentials in a society. Just as values are reflected in norms, different levels of power in a society are reflected in its social classes. Social classes or structures of society may refer to the “large aggregates whose possession of or exclusion from resources leads to varying life chances and capacities to influence the course of events” (Portes, 2006: 240). The aggregates of social classes are determined based
on the different levels of control and power over resources by persons occupying positions within the social structure of society. In addition to differences in accessibility to resources, social classes are also defined by the level of acquired expertise and ability to link up with others within the same class (Portes, 2006). Hence, the class structure of society is usually reflected in areas such as property ownership, administrative and political relations, and the legal system.

The underlying nature of power differentials, reflected in the different class structures, is made visible through the status hierarchies or positions in societies. Status hierarchies are defined by legitimate power or authority by which different roles are played (Portes, 2006). Stated differently, the underlying structure of power in a society is reflected in the different status hierarchies, which are in turn linked to roles on the symbolic side. This relation establishes the interdependency in Figure 1 between the symbolic realm and material reality of social life at the individual level of the framework.

**Interdependence between institution and social organisation**

The interdependence between the elements of the symbolic and material components of society (depicted by the double-ended arrows in Figure 1) is fundamental to the understanding of the conceptual interrelationship between institutions and social structure, or the organisation of a society. At the individual level, roles on the symbolic side specify the expectations or functions of persons occupying status hierarchies or positions in a social structure. This means that deep-seated values, norms and the skills repertoire influence role expectations, whilst power and class structures shape status hierarchies and, hence the implementation of roles.

The interrelationship between institutions and organisations at the collective level of the framework provides the means to define ‘institutions’. At the collective level, a collection of roles come together to form institutions, whilst a group of status hierarchies or positions form organisations. Consequently, following Portes (2006: 241), ‘institutions’ can be defined as representing the:

... symbolic blueprint for organisations: they are the sets of rules, written or informal, governing relationships among role occupants in social organizations like family, schools, and other major institutionally structured areas of organizational life: the polity, the economy, religion, communications and information, and leisure.

The interrelationship established by the above definition means that institutions have social structures reflected in how a society is organised (Portes, 2006). The definition further shows that institutions are the rules that provide the blueprint or design by which organisations are supposed to operate. This conceptualisation implies that whilst institutional rules specify what ought to be done in a particular situation, the characteristics of an organisational...
structure determine what is actually done. Simply put, institutions symbolically specify how organisations are to perform.

One important implication of the above conceptualisation of institutions is that it directs attention to the key areas of social context that must be examined in order to understand the factors that may impede or enhance the outcomes of institutional development. The areas of examination include context-specific elements such as the values or principles, norms, and required skills that underpin institutional rules, and the characteristics of different configurations of the power structures, class structures and status hierarchies that shape organisations. It is the nature of the interactions of these factors in a social context that may have varying influences on institutional development and its outcomes.

Consequently, in order to explain varying institutional outcomes requires an understanding of the complex interplay of the symbolic and material realms of society. This interplay may result in different institutional outcomes across and within countries. On the one hand, the interactions of different configurations of power and class structures that influence organisational structures and the other hand, context-specific cultural elements that underpin institutions can influence the implementation of similar institutional rules. Due to conflicting interests and influences that may arise, occupants of positions in organisations may differ in the implementation of similar institutional rules. Further, certain context-specific cultural values and norms within a society may influence the implementation of formal institutional rules by organisations, which may in turn affect institutional performance (de Laiglesia, 2006).

With specific reference to land registration systems, Bromley (2009: 26) highlighted the complexities of the interplay of both legal and cultural practices, and power relations in influencing the outcomes. He argued that:

...the imposition of alien legal and cultural practices into any setting rarely works as imagined ... because the larger institutional setting into which they are transplanted differs so profoundly from the legal and cultural setting from which they are taken. All legal arrangements, whether titles, bankruptcy laws, property rights arrangements, or family and divorce protocols are the evolved — and evolving — manifestations of a complex pattern of scarcities, priorities, power relations, and local circumstances. To suppose that a tiny piece (titles) of that complex cultural and legal fabric can be transplanted into a new web of complex relations and work as it seemed to work elsewhere is naive in the extreme (2009: 26).

The implication of the above assertions is that ‘getting institutions right’ goes beyond simply transplanting to other countries formal rules and regulations seen to be operating effectively in some contexts (Johnson, 2009). In this context, for institutional development initiatives to be effective, it is important to identify and understand what makes a particular institutional arrangement successful in one jurisdiction and fail in another (Ornert, 2006: 451). Clearly, what is required is a context-specific empirical understanding of the impacts of the key elements of a jurisdiction.

ANALYTICAL FRAMEWORK

This section presents an analytical framework that can facilitate an empirical examination of how the institutional arrangements regarding the urban real estate information management component of land registration can influence urban real estate market processes and outcomes. The framework incorporates the conceptual issues discussed in the preceding section.

Overview of the analytical framework

The analytical framework shown in Figure 2 has four components, namely (1) the institutional arrangement, (2) the institutional outcomes, (3) the market processes, and finally (4) market outcomes. These components establish, on the one hand, the link between an institutional arrangement and its outcomes and, on the other hand, market processes and outcomes. The arrows indicated in Figure 2 show the interrelationships and feedbacks between the various components. The solid blue arrows linking the various components portray the direction of causal influence. For instance, the nature of a given institutional arrangement may result in certain institutional outcomes that in turn influence market processes and ultimately market outcomes. During this process, there may be subtle reverse influences or feedbacks between the components, depicted by the broken blue arrows. The solid red arrows show the interrelationships that exist between formal and informal sectors of the social context of land administration. The solid blue arrows within the institutional arrangement component of the framework represent the internal interactions between institutional rules and organisational structures of the agencies within the formal and informal sectors.

The following subsections discusses the components of the analytical framework.

The institutional arrangement component

The institutional arrangement component, shown in Figure 2, depicts the complex external and internal interactions between formal and informal sectors of a social context regarding land administration in general and land
registration in particular. In order to provide greater opportunity to understand and explain why similar institutional forms may produce different outcomes, even in the same country, this component of the framework incorporates the conceptual distinction of institutions, established earlier. The incorporation of the conceptual distinction of institutions directs attention to the underlying aspects of a social context that must be examined in order to identify possible causes of the differences.

The key areas that the interdependence directs attention to are (1) the characteristics of the inter-organisational relationships and (2) the internal interactions of agencies within the social context of institutional arrangement.

The institutional outcomes component

The institutional outcomes component focuses on the outcome of interest resulting from the interrelationships within the institutional arrangement component. In the context of this work, the institutional outcome of interest relates to the nature of the management of the urban real estate information aspect of land registration systems. The nature of land information management is determined by the clarity of the land delivery system in a jurisdiction, which is in turn largely defined by the characteristics of two
related processes, namely the land acquisition and transfer processes, and land rights documentation and registration processes.

**Market processes and outcomes components**

Taken together, the **market processes and the market outcomes components** of the framework in Figure 2 define the functioning of the urban real estate market. Stakeholders in the market require relevant up-to-date land information to make informed market decisions. Hence, the nature of urban real estate information management affects the effectiveness of the market processes. The ease with which stakeholders are able to meet their information requirements, depending on a given institutional outcome, affects the characteristics of the market processes. The effectiveness of market processes, in turn, contributes to the explanation of the characteristics of market outcomes in terms of values and the volume of transactions.

The components focus on how market participants react to the impact of the interactions between the formal and customary sectors in a particular context. Given the complexities of interrelationships that occur within each social context regarding the administration and access to land, even in urban areas, there is a need to approach the assessment of market outcomes differently. In this context, Kihato (2010) argued that “understanding urban land markets on the [African] continent is not so much an exercise in retrofitting existing neo-classical explanatory devices, but rather in analyzing these markets in their own terms and developing a new vocabulary for explaining what we see on the ground”. Consequently, following Keogh and D’Arcy (1999), the market is perceived from an institutional perspective. This perspective allows the assessment of market outcomes to shift from a focus on the overall efficiency of the market to the effectiveness of the market processes that lead to specific market outcomes.

The above shift in focus makes it possible to identify the relative influences of social processes on the market’s operation as well as how the market shapes customary land administration practices. Further, it allows for the information needs of the participants in the market to be identified and assessed in addition to how the requirements for information are being met. The examination therefore focuses on the interactions among the various market participants in terms of the channels available for accessing information as well as the identification of constraints (Arvanitidis, 1999: 8). It is expected that such an institutional approach to market analysis will provide a better prospect for gaining important insights into the structure of the market itself.

**CONCLUSIONS**

To contribute to addressing the mixed outcomes of introduction and improvements of formal institutions, such as land registration systems in SSA, an analytical framework was presented and discussed. The framework, which was based on a conceptual link between institutions and the social organisation of a society, identified elements within the social context of a jurisdiction that could create barriers to the effective provision of relevant land information management by urban land registration systems. The framework provides a means to examine and identify factors within the social context that may affect the outcomes of the institutional arrangement for land registration regarding its real estate information aspect and, ultimately, on the effectiveness of the urban real estate market processes and outcomes. An important aspect of the framework is that when the essential elements of the social context are examined historically, it can enhance understanding of the factors that impede or enhance institutional change.

**REFERENCES**


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