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Land Administration Systems in Ghana and the Provision of Affordable Housing

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Abstract
House prices have risen dramatically and it is evident that this has prevented many people from buying their own home, consequently increasing the demand for affordable housing within Ghana. Furthermore, demand for affordable housing across the country exceeds potential supply. Housing provided by the formal sector in the country is generally too expensive relative to income levels and the number of units built is insufficient. The formal sector caters mostly for upper income households where it is profitable for private developers to produce housing. Despite government efforts to provide social housing to attend the demands for housing of poor, only a fraction of the poor has been accommodated in this way. As a result, the housing problem in Ghana is the shortage of affordable accommodation for the urban poor; the low-income majority. In view of their inability to access housing through the formal channels, the poor take it upon themselves to build their own housing. Self- build housing or progressive housing has played a major role in the production of Ghanaian's low-income housing stock. However, the ability of most households to build on their own is affected by many factors. The literature review found that the main constraints observed on the supply of this housing are access to titled land and access to construction finance. The land administration systems in Ghana can be described by two adjectives; complex and multiple. The entire systems have been governed by multiple laws, regulations, processes, standards and have been managed by multiple institutions with highly fragmented land administration structures, limited cooperation and coordination. As a result, there are overlapping and duplication of functions and organisations and institutional management weaknesses are evident. This results in general indiscipline in the land market.
Keywords: *Land Administration Systems, Provision of Affordable housing*

1.0 INTRODUCTION

Due to limited affordable housing, the majority of Africans acquire their home ownership outside the formal housing market, in slum and informal settlements. After Asia and Eastern Asia, SSA has the highest proportion (71.8 per cent) of slum dwellers in the world (UN-Habitat, 2006). It is estimated that as of 2001 nearly 72 per cent of the total urban population of SSA, equivalent to 231 million, lives in slums (UN-Habitat, 2003). The vast majority of slums, more than 90 per cent, are normally found in the large capital cities and intermediate and small urban centres (UN-Habitat, 2006) (See Figure 1.1).

Looking at the high growth rate in the region, the number of slum dwellers are expected to double by 2020 reaching nearly 400million (UN-Habitat, 2006). Many households find themselves in cheap accommodation in the form of single rooms or in extreme crowding within dwellings and large numbers of households live in sub-standard housing conditions.

2.0 LITERATURE REVIEW

The purpose of this chapter is to provide an outline of relevant theoretical fundamentals of institutions. In recent years, the role of institutions for development has received considerable attention from development researchers, policy makers and practitioners. Institutions are generally defined as "constraints that human beings impose on themselves" (North, 1990, p.3). Institutional economics offers a theoretical framework for studying domestic institutions and organizations prevailing in an economy and the way these institutions emerge evolve and impact the behaviour of individuals. The New Institutional Economics paradigm (NIE) provides a flexible framework to understand a wide network of institutions that influence economic behaviour and performance (Williamson, 1985; North, 1990). In this chapter, NIE is developed as an analytical framework to link land administration and financial institutions in terms of their institutional framework and how they affect the provision of affordable housing. The chapter is in four sections. The first briefly sets out a definition of institutions, while the second discusses the NIE and its strands including transaction cost theory and property rights theory as a significant component of institutions. The fourth presents their application to land administration and financial institutions.

2.1 Institutions Defined

Institutions exist everywhere and are a fundamental part of social interactions. Despite achieving (arguably) mainstream status, the study of institutions continues to lack an unanimously agreed-upon definition for what constitutes an institution (e.g. Commons, 1934; Ostrom, 1986; Scott, 1987; Crawford and Ostrom, 1995; Williamson, 2000; Aoki, 2005; Hodgson, 2006). Some scholars include in their definition of institutions organisational entities, procedural devices, and regulatory frameworks (Williamson, 2000). North (1990) often regarded institutions as the rules of the game and Hamilton (1932, p. 84) describes, ''institutions as a way of thought or action of some prevalence, which is embedded in the habits of a group or the customs of people suggesting that institutions fix the confines of and impose structure upon the activities of human beings''. In most of the recent articles, institutions are defined in a broader sense, linking various different measures of institutional quality to development outcomes from various angles and disciplines.

The most commonly agreed upon definition for institutions is the rules of the game of a society, or; more formally the humanly devised constraints that structure human interaction. They are composed of formal rules such as statute law, common law, regulations, informal constraints, namely conventions, norms of behaviour and self-imposed codes of conduct, and the enforcement characteristics of both (Adams et al, 2005; Harris et al, 1995). Adams et al (2005) argue that these institutions reflect prevailing power and the interests of social and political actors and predominant cultural forms. Following this definition, institutions prohibit, permit or require specific types of action, i.e. political, economic or social, that can be important for reducing transaction costs, for improving information flows and for defining and enforcing property rights. Neoclassical economics, whenever it discusses institutions, can be seen as emphasizing their role as constraints. Dequech (2006) argues that institutions have at least three influences on economic behaviour. The first is referred as the restrictive function of institutions. The second refers to what Hodgson (1988) calls the cognitive function of institutions. Finally, institutions perform a third function, their influence on the ends that people pursue and this can be called their motivation function.

North (1990, p.6) however, argues that the, "major role of institutions in a society is to reduce uncertainty by establishing a stable (but not necessarily efficient) structure to human interaction". These constraints include both what individuals are prohibited from doing and, sometimes, under what conditions some individuals are permitted to undertake certain activities. In other words, they are the framework within which human interactions take place. Economists and other theorists have proposed appropriately broad frameworks to explain institutions' nature and functions. NIE is the most successful of these theories. The institutional framework is seen as the critical success factor for economies, both cross-sectionally as well as through time.

North (1990) further argues that the institutional framework shapes the direction of the acquisition of knowledge and capabilities, and that direction will be the decisive factor for the long-run development of a society. Several layers of institutions are important for institutional development and economic performance. Williamson (2000) identifies four levels of institutions. His first level, shown in Figure 2.1, is the "Embeddedness" level which includes informal social norms, customs, traditions (including religious traditions) which impose constraints on the next levels. The second level is referred to as the "Institutional Environment" setting out formal rules. The institutional environment is the formal and informal legal, social and political rules that determine the context within which economic activity takes place (Buitelaar, 2007; North, 1991; Williamson, 2000; Auzins, 2004). The institutional environment has continuity since it changes rather cumulatively and progressively.

The third level is what Williamson entitles the "Governance" level or "How the game is played" (Joskow, 2003, p.12) or "Operational" level (Ostrom, 1990, p.52). It incorporates the institutional arrangements or the governance structures by which the exchange of property rights are organised and contracted for (Buitelaar, 2004; Williamson, 1996; Auzins, 2004). The fourth level of "Pricing" is the domain of neo-classical economic analysis where there are adjustments to prices and output. Williamson's (2000) four levels of social analysis build the entry point to the systematic thinking of institutions and institutional change that define the deliberate incentive structure of a society (North, 2005). As Williamson (2000) pointed out, each level of institutions has a controlling influence on the level below it, and there are also feedback effects from lower levels to higher levels. Institutions can also be seen to operate at macro and micro-levels (Williamson, 2000). While the macro level deals with the institutional environment, the micro level analysis, on the other hand, also known as the institutional arrangement

2.2 New institutional Economics

The study of institutions via NIE can be seen as an extension of the neo-classical economic thinking that has dominated western democracies in the last few decades (Karruna, 2013). The term was invented by Williamson (1975) and has gained remarkable growth since the 1970s (Hodgson, 1989). There is no universally accepted definition of NIE but a good one might be, "NIE examines the effects of institutions (rules and rule enforcement) on the behaviour of rational individuals in environments with uncertainty and other transactions costs, and examines the consequences of this behaviour in terms of individual and collective welfare" (Azfar, 2002, p.2). The goals of NIE encompass explaining what institutions are, how they arise, what purposes they serve, how they change and how – if at all – they should be reformed (Klein, 1999).

According to Samuels (1995, p.578), ‘‘NIE works largely with neoclassicism, and shares its rationality, maximisation, and market or market-like orientation and likewise tends to seek, though with less formalisation, the conventional determinate, optimal, equilibrium solutions to problems’’. The NIE is an interdisciplinary enterprise combining economics, law, organization theory, political science, sociology and anthropology to understand the institutions of social, political and commercial life. As a result, Harris et al (1995, p.1) argue that the NIE is a body of economic theory which ascribes an important role to ideas and ideologies, and one which is accessible to other social scientists, seeming to open up the terrain of genuinely inter-disciplinary enquiry. This means that it borrows liberally from various social-science disciplines, but its primary language is economics (Klein, 1999).

According to many economists, NIE does not replace neo-classical theory but extends it to include institutions of transaction costs (Harris et al, 1995; Rutherford, 1994; Adams et al, 2005). However, it rejects certain very restrictive assumptions in the notion of the market that is central to neo-classical economics. Similar to the old institutional economics, the NIE is interested in the social, economic and political institutions that govern everyday life, always couching its explanations in terms of the goals, plans and actions of individuals. NIE is an umbrella term for several quite different schools of thought. Figure 2.3 gives a graphical depiction of these fields and the main academic contributors to each.

2.2.1 Property Rights

The focus of this thesis is on the transaction costs strand and property rights in particular. Property rights are legally defined and enforceable rights relating to the ownership and use of resources and commodities (Adams et al, 2005; Furubotn and Richter, 1991). They range from formal arrangements, including constitutional provisions, statutes, and judicial rulings, to informal conventions and customs regarding the allocations and uses of property. Property rights are fundamentally important for resources allocation and can be said to be complete if they are comprehensive, exclusive and transferable. The notion of property rights is linked to transaction costs because they are costs associated with the transfer, capture and protection of rights.

Property rights are a key element of institutional economics especially when looking at land markets and crucial determinants of the efficiency of markets (Harris et al, 1995). Libecap (1989) asserts that the nature in which property rights are defined and enforced fundamentally impacts the performance of an economy for at least two reasons. First, by assigning ownership to valuable resources and by designating who bears the economic rewards and costs of resource use decisions, property rights structure incentives for economic behaviour within the society. Second, by allocating decision-making authority, the prevailing property rights arrangement determines who the key actors are in the economic system.

Strong property rights allow individuals to post collateral when applying for loans, thus improving the terms and conditions of the loan contracts they receive. However, weak property rights increase transaction costs and thereby hinder economic development. As a result, Adams et al (2005, p.60) argue that, ‘‘clarifying property rights reduces the transaction of creating legal institutions to create, monitor and police contracts and inter alia, protect rights’. Harris et al (1995) suggest that statist regulation, ill-defined property rights and other constraints restrict rather than stimulate economic activity. These conditions result in rent–seeking and redistribution, not promoting productivity.

These institutional factors that shape land and housing market dynamics are often ignored in dominant economic theories (Karruna, 2013). The role of institutions in housing markets has a significant bearing on the output and quality of housing. North (1990) stresses that the "housing market" is an example of a market that is affected by an especially complex matrix of institutions. Transactions may require negotiation with financial institutions as well as bargaining among housing market participants. If the transaction costs are too high, exchange will not take place or will be severely constrained (Eggertsson, 1990). This implies that high transaction costs cause market failure and well-functioning housing markets can minimize problems associated with rapid urbanization such as unaffordable housing and urban slums (Cruz, 2008).

Aside from the costs associated with property purchases, secure property rights are seen to directly support home and land values, increase households' access to credit, and promote investment in housing structure and home-based enterprises. Problems on property rights, such as fake titling, delays in agreements of right of ways, and land grabbing, further increases transaction costs (Ballesteros, 2002). Karruna (2013) argues that if property rights are in place and are enforceable then they will reduce transaction costs as less money is spent on trying to establish ownership rights, for example, and therefore lower barriers to entry to the market.

2.2 Application of NIE in this Study.

This paper has offered an overview of NIE. It concludes that the NIE is a significant theoretical contribution to institutions and a development of neo-classical economic to include the role of transaction costs in exchange and property rights. The NIE is important as a major development with the dominant paradigm of modern economics. The link between property rights and transaction costs are the foundation of this analysis. The 'property rights' has consistently focused on transaction costs play in determining the distribution of property rights, broadly defined as all laws, rules, social customs and organizations that generate incentives for behaviour.

NIE is particularly relevant to the study of developing economies, where non-market institutions and market failure have been of particular importance. The NIE starts from the reality that information is rarely complete and that individuals have different ideas of the way in which the world about them works. This is very much the world of the Ghanaian property market where information is asymmetric.

The study examines all four levels of the institutional hierarchy outlined above. It encompasses the embeddedness level through an examination of the traditional tribal customs and their application to the housing market. The institutional environment is addressed through a consideration of the formal and informal processes that determine the land market mechanisms. The governance level is covered through a detailed analysis of the working of the institutional arrangements for the exchange of property rights and the financing of transactions. The fourth level of pricing is referenced via the implications of housing market processes for affordability. This study in particular will focus on the administration of property rights, land administration and financial institutions within this analytical framework to assess the provision of affordable housing. This framework enables us to provide some answers to our main question: to what extent do institutions influence provision of affordable housing?

2.3 NIE Framework for this Study

Our framework for NIE weds the foundations of property rights and transaction costs to the operation of land administration institutions, the financial institutions and affordable housing.

2.3.1 NIE and Land Administration Institutions

Institutions feature prominently in land administration literature but analysis is often undertaken without a theoretical framework specific to institutions (HO and Rajabifard, 2002). Auzin (2004) suggests that land administration needs development of an appropriate theoretical basis. HO and Rajafard (2002) argue that this prevents researchers' effort to make comparisons across different jurisdictions and deepen understanding of why some institutional arrangements work, while others do not. Land administration institutions like any other institutions should be considered as governing structures that constitute a framework made up of norms, rules and enforcement mechanisms. They are made of formal and informal institutions that constrain and shape land use decision-making.

According to Alden Wily (2003) the institutions for land administration may be broadly categorised as – (1) Legally autonomous bodies (that is, with independent legal personality and statutorily autonomous of central or local

Governments and of traditional authorities); (2) Government or local government institutions or bodies under their auspices; (3) Traditional institutions (chiefs and other traditional authorities); and (4) Other.

Transactions costs are an inescapable feature of land administration systems. The ways in which land institutions formulate rules and rights and organise land administration functions influence both the level and distribution of transaction costs. Land administration does not only consist of market cost but non-market transactions, chiefly administration (Schmid, 1987). Non-market transactions entail costs just like market transactions, because collecting information, making decisions, formulating (institutional and other) rules, monitoring compliance with these rules, and enforcing these rules are costly undertakings (Paavola, 2002). These do not necessarily lead to an inefficient market system. According to Paavola and Adger (2005, p.7) the distinct sources of costly inefficiency can be identified:

1. *''limited cognitive capacity makes information gathering costly;*
2. *self–interested agents do not have incentives to disclose information about their preferences and plans.*
3. *institutions can make information gathering costly. For example, multiple governance institutions may scatter information across governance regimes or deny or limit the authority of agents to obtain it''.*

Barzel (1997) further argues that high transaction costs for the determination and transfer of property rights creates a situation of incomplete property rights and prevents people from exploiting fruitfully their assets as well as blocking or making difficult the optimal distribution of land to its best use.

As noted earlier NIE examines how institutions and property rights emerge and function (North 1990, 1997). Property right is an institution, or may be a bundle of institutions. It is in fact the single most important group of institutions governing the control of land and distribution of land resources and the benefits accruing from land. A property institution consists of a set of rights and a set of duties or obligations. There are also specific institutional arrangements like land administration (registration) and land management, supporting and activating the institution of property right. They are structured and modified by institutions and social norms (institutional framework) devised by society to shape human interaction.

2.3.2 Financial Institutions and NIE

People and organizations wanting to borrow money are brought together with those having surplus funds in the financial markets. In a global context, economic development is highly correlated with the level and efficiency of financial markets and institutions. This implies that the economic system could not function without financial institutions. These institutions including commercial banks, savings and loan associations, and credit unions—are financial go-betweens. We restrict our attention in this section to mortgage financing institutions. NIE has developed neo-classical analytical tools in relation to credit transactions in low- income countries by incorporating an understanding of the influence of imperfect information and transactions costs (Stiglitz and Weiss 1981). T

his work argues that credit markets are subject to information, monitoring and enforcement problems due to the inter-temporal basis of their transactions. Financial institutions in developing countries charge relatively high transaction costs because they face high risk of default and lack the legal means of enforcement. The NIE suggests that the borrower's actions are intended to contribute directly to the lender's goal attainment. However, due to informational differences between the two parties, misaligned incentives, and uncertain expectations, the performance of the loan contract may be highly uncertain and the terms of the contract inherently incomplete. Asymmetric information is also directly involved because the lender may lack information about the borrower's goals and actions, as well as about the risks of the project being financed. At the heart of NIE is the making, monitoring and enforcing of contracts. The ease or difficulty of contracting, and the types of contract made, are determined by the level and nature of transaction costs, underlying the extent of imperfect information involved in making a transaction.

In Africa, the institution of banking is not particularly well developed and in many areas is restricted to large urban centres. They may be missing either because of the low level of development of the economy, or because their emergence has been blocked. Thin or absent markets mean less information and higher costs of obtaining it. Specifically, they increase the costs of searching for information about buyers and sellers, and about the quantities and qualities of goods or services available; they increase the costs of bargaining to determine prices, the uncertainties in making, monitoring and enforcing contracts, and the costs of enforcing property rights (Eggertsson, 1990, p. 15).

Protection of property rights is a key determinant of the efficient operation of contracts and the development of financial institutions. Property rights measures a key input into the efficient operation of financial contracts and the development of formal financial institutions (Beck et al, 2002). Recently economists have also recognized that a system of strong property rights can enhance efficiency in financial sectors (Banerjee et al, 2005). As indicated in the above section, because of the asymmetric nature of information, borrowers post assets as collateral to improve the terms and conditions of the loans they receive. This suggests that stronger property rights allow individuals to post more collateral when applying for loans, thus improving the terms and conditions of the loan contracts they receive. In contracts respond to market conditions, either assisted by prevailing institutions where these are supportive, or hindered where they are incomplete (creating uncertainty) and or hostile to the transaction concerned.

Prevailing institutions also partially determine transaction cost through the uncertainties and assurances they provide regarding clarity and enforcement of property rights, the conventions which must be conformed with, and the social authority (who decides what) which must be recognised in contracting. The framework offers an explanation as to why the quality of property rights institutions matters to financial development. There is a large variation across countries in the efficiency with which financial institutions and markets reduce transaction costs and information asymmetries, with important repercussions for economic growth and development.

3.0 CONCLUDING REMARKS

The use of the term institution has become widespread in the social sciences in recent years, there has been substantial progress in our understanding of institutions, the casual use of the term "institution", combined with the lack of an analytical framework, has produced vague policy recommendations. Institutions are systems of established and embedded social rules that structure social interactions. Institutions are formed to reduce uncertainty in human exchange. Institutions prohibit, permit or require specific types of actions, i.e. political, economic or social, that are important for reducing transaction costs, for improving information flows and for defining and enforcing property rights.

Institutions can be analysed using rigorous theoretical and empirical methods that have been developed in the neoclassical tradition. This chapter, therefore, offers an overview of NIE. It concludes that the NIE is a significant theoretical contribution to institutions and a development of neo-classical economics to include the role of transaction costs in exchange and property rights. The NIE is important as a major development with the dominant paradigm of modern economics. The link between property rights and transaction costs are the foundation of this analysis. The 'property rights' has consistently focused on transaction costs play in determining the distribution of property rights, broadly defined as all laws, rules, social customs and organizations that generate incentives for behaviour.

The paper applies its theoretical framework to land administration and financial institutions and provision of affordable housing. This framework, though abstract and highly simple, enables us to provide some preliminary answers to our main question: to what extent do institutions influence provision of affordable housing. This chapter suggest that to succeed, affordable housing provision must be embedded in a sound and efficient institutional structure which allows for the effective functioning of all institutions as well as for cooperation between them and other actors.

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