

Legal reforms for economic development in Africa: How effective?

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Chapter 7

Valorisation Addendum

Pursuant to the Regulations of Maastricht University, I am required to include a piece on Valorisation, or a brief discussion on the application of this thesis for social/economic use. Thus, in this section, I attempt to answer the five questions presented in the Maastricht University PhD Regulations:

1. Relevance: What is the social (and/or economic) relevance of your research results (i.e. in addition to the scientific relevance)?

The central question- ‘how can law drive economic development in Africa?’ guided the study towards the observation and analysis of the interplay of law, institutions and economic performance. Specifically, the thesis evaluated the effectiveness of law in directing the behaviour of the Governments of Nigeria and Rwanda in the management of public debt.

How are the results of my research relevant?

In October 2017, the President of the Federal Republic of Nigeria requested permission from the National Assembly to increase the country’s external debt portfolio by US\$5billion, to finance infrastructure projects. US\$3billion is to be sourced through a Eurobond, and US\$2billion on the International Capital Market (Umoru, 2017). At the time of writing this Valorisation addendum, the National Assembly has yet to provide a response to the Presidency. The Debt Management Office estimates that this borrowing will be repaid over a period of between 5 to 30 years (Baiyewu, 2017). It is interesting to note that in July 2017, the Minister of Finance warned that Nigeria should no longer finance her budget through debt finance. Her words: “we cannot borrow anymore, we just have to generate funds domestically to fund our budget. Mobilise revenue to fund the necessary budget increase” (Ogunmade & Chima, 2017).

For myself, (and I would imagine, millions of young Nigerians of working age), this sounds like the Government plans to borrow more money at my expense. To be fair, successive governments have borrowed extensively on behalf of the country and her people. However, writing a thesis on debt finance at a time of heavy national borrowing renders the borrowing numbers vivid and personal. Indeed, the questions asked in the thesis, particularly those relating to the monitoring and use of debt finance become compelling and important.

Since the 1990s, governance and the rule of law have been presented by NIE and International Finance Institutions as critical elements for the achievement of developmental goals. Over the last two decades, legal reforms in Africa have attempted to use laws as tools to structure societies and create beneficial results. Chapters 3, 4 and 5 of this thesis discuss the application and effectiveness of laws in regulating the behaviour of the Governments of Nigeria and Rwanda in the area of debt management.

Law is important, and law is powerful. Also, governments do shape the trajectory and quality of life for their citizens and residents. I argued in this thesis that laws should

be evaluated against outcomes within the relevant context. Thus, measuring law against outcomes (intended and unintended), would support not only the evaluation of the effectiveness of laws. Importantly, it allows the observation of the effect of legal stipulations on institutional behaviour, and by extension economic and societal results. Where law has been deployed as a tool of economic management, it is important for all stakeholders, whether citizens, governments, development partners, and in the context of this thesis, creditors, to evaluate its usefulness, effectiveness for the purposes deployed.

Also, where law is the tool of economic management, it is placed as the location for negotiation and disputation for all interest groups. It follows that the discourse on the rule of law needs to extend beyond the application of laws, to the analysis of the effect and suitability of laws. The quality of laws, and their effectiveness for achieving developmental goals would be improved through regular evaluation and critical reflection of the interaction of laws, institutions and economic outcomes, by all stakeholders.

2. (Target groups) To whom, in addition to the academic community, are your research results of interest and why?

The widespread acceptance of governance, institutions, and the rule of law for development lies in the adoption of the governance agenda by International Finance Institutions, particularly the World Bank, itself influenced by the work of economist-academics. In addition, governments, whether willingly or unwillingly, have pursued the governance agenda. Similarly, civil society organisations have championed the governance agenda, and attempt to hold governments accountable.

It may be that the approach and tools discussed in this thesis, particularly evaluating law against outcomes, would be useful to all the stakeholders mentioned in the paragraph above. Also, within the legal profession and academic community, it may be possible to explore the development of tools, such as indexes, and platforms, such as dialogues to examine the quality, suitability and effectiveness of laws in different spheres. This would be interesting, I believe, to see how laws interact with institutions at micro-level, e.g., public debt, public spending, property rights. Also, it might be intriguing to conduct such an evaluation on a comparative basis within countries, to observe the interplay, and (perhaps) conflicts of legal regimes within national economies.

Furthermore, public officials and law makers might consider the questions asked in Chapter 5 of this thesis relevant in the law-making process. Where law is introduced as tool to drive development, it is critical to state clearly the objectives of development, and the metrics by which these objectives will be measured. In Chapter 4 of the thesis, I outlined some of the limitations of legal reforms, e.g., political/administrative systems. The importance of 'localising' laws cannot be overstated. As I observed in Chapter 5, legal transplantation is often the easiest way of law-making. Nonetheless, it is important

for law-makers to thoroughly scope the political, administrative and intellectual contexts in which laws will be applied, and then render laws fit for purpose.

3. Activities/Products: Into which concrete products, services, processes, activities or commercial activities will your results be translated and shaped?

There are several opportunities to translate the arguments and insights of this thesis into products and activities. Firstly, the ‘assessment tool’ presented in Chapter 5, by which law can be measured against outcomes can be further developed for use by different stakeholders. Thereafter, the tool can be deployed by myself and other researchers/research institutes to conduct evaluations of legal frameworks within specific economic contexts. Thereafter, with the findings of these evaluations, it would be possible to engage with academia, the legal profession and International Finance Institutions. These engagements can occur through research programmes, conferences, workshops and other opportunities as may be explored.

4. Innovation: To what degree can your results be called innovative in respect to the existing range of products, services, processes, activities and commercial activities?

It has been said, by no less than authority than Scripture, that there is nothing new under the sun (Ecclesiastes 1:9). However, I hope that in this thesis, on a practical level, I have submitted simple and actionable proposals by which law can be used as an instrument of development, especially on the African continent.

Existing tools for the evaluation of law, for example, the Country Policy and Institutional Assessment and the Doing Business Index, are applied on a global, comparative basis. I have argued that it is also necessary to evaluate laws against outcomes within national economies. Also, provided in Chapter 5 are sample tools by which this may be prosecuted. While these tools will be further refined in application, they are different to existing tools in several respects:

- a) Purpose: the popular indexes (CPIA, DB) are owned and populated by the Staff of International Finance Institutions for the purposes of assessing economic/institutional performance, and for resource allocation. The tools for outcome-based evaluation are intended to evaluate the effectiveness and suitability of laws for the achievement of developmental objectives.
- b) Approach: the outcome-based approach of the evaluation of laws uses as a benchmark the stated objectives of legal instruments, rather than ‘ideal law’ benchmarks. Also, the outcome based approach is different in that it considers both intended and unintended outcomes of the application of legal instruments.

Ownership: I will claim copyright of these tools. However, the tools used for the evaluation law against outcomes can be adapted and used within different contexts.

5. Schedule & Implementation: How will this/these plan(s) for valorisation be shaped? What is the schedule, are there risks involved, what market opportunities are there and what are the costs involved?

In the immediate future, these tools can be applied within research and policy initiatives within the fields of law and economic development. There are plentiful opportunities within rule of law and governance programs to undertake practical evaluation of the effect of laws within economies. As the tools have been presented in this thesis, they can be deployed without further significant cost, applied in their current state, and refined as they are utilised.