The future of aid is in building legitimation

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Abstract

The present paper is an essay about the future of aid, understood as a global, durable, social phenomenon. Special attention is attached to the issue of governance, both the governance of aid itself, and institutional reforms in the recipient countries. A short review of literature on the topic serves to support a general thesis that the stream of aid is a stream of capital, and that natural possession of that capital confers palpable economic power to whatever social agent holds it temporarily in the field of their discretionary decision. Both theoretical, and empirical development of the subject is then conducted in order to show that the main cause of unsatisfactory institutional changes in the recipient countries is the fact that aid disturbs the already frail balance between legitimation and economic power in emergent societies. In conclusion, a new paradigm of governing aid is proposed, centred on building legitimation for aid itself, i.e. on using the known experience and history to construe a broad, consistent, normative base for aid programmes. The theory of justice, as proposed by John Rawls, seems to be the right starting point for establishing the primary rules of that normative base. As for the secondary ones, a new institution, namely international arbitration of claims related to aid, is proposed as an interesting solution for progressively building the secondary rules of recognition, in the legitimation of aid.

What is the future of aid? What amounts of aid will be necessary in the future? What does it mean "necessary aid", at the bottom line? What kinds of social change can we reasonably expect as the outcome of aid? What is unpredictable about social changes connected to aid? These are the big questions that most people concerned with aid use to ask. The present paper attempts to answer them partly, with a strong focus on public governance, and on the impact that aid has on the governments of recipient countries.

Aid and social change

Quite a rich body of literature indicates that changing the institutions of recipient countries, which in the jargon of aid is called "capacity building", is the most frequent failure of aid programmes. Still, the problem seems to me more the way aid is given rather than received. The donors seem to have a systematic problem with walking in the recipients' shoes (see for example: Moss et al. 2006; Knack and Eubank 2009; Barder 2006; Birdsall 2007; Kaufmann 2009). Whilst failing in capacity building, aid is indubitably salutary for the poor (Hirano, Otsubo 2014). The general problem with the donors' impact upon the emergence of institutions in recipient countries is that the latter, as a rule, do not want that. For example, the growing movement of South-South development cooperation (SSDC) is strongly attached to the argument that aid is often used as a neo-colonial tool by developed countries – imposing unreasonable constraints on developing countries and tying aid to commercial, political and military interests of the donors (Reality of Aid Management Committee 2010). Probably the best example of the gap between the expectations of donors, and the actual institutional capacity of the recipients is the process of constitution making in African countries. A number of authors argue that the process has been, so far, largely an attempt to implement, in African societies, institutions fundamentally different from the African tradition. The process can be compared to someone picking up food from an elaborate buffet, in which they don't recognize anything really familiar (Seidman 1987). An excellent example is centralization. Most of the early African constitutions were based on the Western institution of central government legitimated by the nation. Still, pre-colonial African societies worked in a different manner: the bulk of legitimacy was attached to local chiefs of individual villages, whilst any type of central, national government was rather of the ephemeral kind, and nobody truly cared to legitimate it (Ndulo 2001). Thus, principles of centralization that emerge in African countries are, as a matter of fact, a big experiment, which frequently results in excessive concentration of power in the hands of the otherwise quite unstably legitimated President of the Republic. Nigeria, Ethiopia, and Zambia are good examples.

Facing the challenge of helping the poor, and, in the same time, not to hamper the institutional development of the recipient countries, the usual donors' response is to seek improvement of the policies applied. A fine example of this approach is to find, for example, in Radelet (2004). The present paper proposes a completely different, novel paradigm of aid. Fault of a better word, we can call this paradigm "orientation on principles", as opposed to orientation on policies. Aid is a long-lasting, global phenomenon. Using the terms of systems theory, in the footsteps of Nicklas Luhmann, we can assume that aid had reached the stage of operational closure already some time ago (Luhmann 1992). Both its accumulated experience, and its actual complexity call for passing from the governance based mostly on goal-oriented policies to the one grounded in a well-legitimated, normative base.

On the grounds of the agency theory, it is possible to assume that the natural possession[1] of capital can be the source of social power that we will further name "**economic power**" (see: Berle, Means 1932; Wilson 1968; Berhold 1971; 1973; Jensen, Meckling 1976; Fama, Jensen 1983). Capital shapes social structures, and social structures shape capital (see for example Piketty 2013). Any hierarchical, social structure – states and corporations included - is able to sustain itself over long periods of time if it has both legitimation, and economic power. The concept of legitimation, as introduced here, is basically the same than that used by Max Weber (Weber 1920), and H.L.A. Hart (Hart 1961), but mostly that of Jürgen Habermas (Habermas 1975, 1979, 1996). Society needs stabilization in order to deliver the most benefits from association. Social stabilization requires a set of generally recognized rules of conduct. Some of them are formalized as legal rules, whilst other are the less formalized moral rules. Generally recognized rules do not emerge randomly. They require a gradual process of social mediation, and communication. That process has its roots in language, which serves as the medium for the discursive emergence of legitimate rules. It is worth to explain the link between legitimation, and legitimacy. Those two terms are sometimes used interchangeably, yet a nuance is to notice. Legitimacy is a state of society at the given moment, whilst legitimation is rather a process. Legitimation brings legitimacy, so to say.

As the stream of aid is allocated, distributed, and received, many social agents are in the temporary, natural possession of the capital goods that aid represents. Correspondingly, many

[1] By natural possession we understand the bare fact of possessing a certain set of goods, abstraction made of the exact legal claim on those goods.

opportunities for economic power arise. Each of them, besides the economic power strictly spoken, is characterized by a certain legitimation, and, consequently, by a certain level of stability. Legitimation of the political system is essentially incremental, i.e. emerging as the result of a long, complex social process, with strong connection to law, and morality. In the ideal state, there is equilibrium between legitimation, and economic power, resulting in well-grounded political power. From that state of equilibrium, the political system may drift toward two extremes: legitimation without economic power, or economic power over and above the scope of legitimation. The mechanism of sliding off the neighbourhood of equilibrium seems to be attached mostly to the changes in economic power. Legitimation changes slowly, whilst economic power can change faster. One can grasp that difference by comparing the pace, at which constitutions change, with that, at which consecutive, annual budgets are voted.

Governments are structures, not monoliths. They are structured institutionally, and sociologically. The latter is the most interesting at this point. The public sector is a population of people, who in the first place are people as such, with their individual goals, and strategies to achieve them. Those people associate in more or less formal ways, forming coalitions, lobbies, clubs, parties etc. Thus, when we talk about the political power of the government, we mean the power held, acquired and played by many people. A game-theoretic approach can be used to model the transformation of individual strategies into collective political action (see for example: Harsanyi 1953; 1966; 1967; 1968).

The capital brought by the stream of aid can influence the political system in two basic ways. Firstly, it can enter de facto into the fiscal equation of the public sector, thus increasing its overall economic power. Conversely, aid may remain out of actual reach of public agents, in the hands of NGOs with well-grounded independence. Yet, those NGOs also found their social power on the economic power conferred by the natural possession of capital goods, as conveyed by the stream of aid. The point of the argumentation is that any social structure, which spends the capital coming from aid, has come economic power grounded in that capital. The crucial component of the overall social benefits of aid is the actual legitimation combined with that economic power. Given the previously cited body of research, the basic problem (and basic challenge) is to prevent the development of "feral" economic power, lying outside of the scope of legitimation.

Now, let's pass to the properly spoken empirical proof of the important assumption that aid is a stream of capital. Its logic is to demonstrate the correlation between the stream of aid received by recipient countries, and the processes of capital formation in their economies. Two sources of information have been used, namely:

a) The database of aid flows as published by the World Bank under the title of “Aid Effectiveness” database[2]

b) The database World Economic Outlook (WEO) April 2014

The variables that describe capital formation are: the share of gross gross national savings in the GNI, and that of private investment. As for the measure of aid intensity, two variables have been chosen, namely: the share of ODA in the GNI, and in gross capital formation.

Among the 177 countries recipient of aid, according to the World Bank, 65 countries have been selected, on the grounds of statistics regarding the formation of capital, as provided by the International Monetary Fund, for the period 1980 through 2012. The detailed composition of the sample is provided in Table 2, in the Appendix. As the country-level datasets display quite a disparate volume[3], the general strategy of econometric analysis was not to account for fixed effects at the country level in the subsequent econometric test. A preliminary test of inter-correlation among the variables measuring the aid intensity revealed a strong mutual dependence, with a Pearson correlation coefficient of $r = 0{,}501$. Linear, OLS regression of the ODA share in the GNI over its share in gross capital formation brought a coefficient of regression $\beta = 4{,}694$, with a standard error of (1,006), and significant at $p < 0{,}001$. The constant term in that regression is 5,17, with a standard error of (3,83), and the test T significant at $p = 0{,}177$. In a general manner, inter-correlation between the two variables measuring intensity of aid is of the kind “too strong to ignore; too weak to ignore”. Moreover, there has to be an assumption of significantly different saving rates between countries. Thus, both variables have been kept as explanatory variables in the following test of regression. In order to provide for the possible non-stationary distribution of data, it had been transformed with the classical, Box-Cox logarithmic transformation had been judged appropriate (Box, Cox 1964).

Table 1 below shows the results of three basic tests of linear, OLS regression. In a general manner, the intensity of aid has significant impact upon the accumulation of both private and publicly held capital in the recipient countries.

[2] http://data.worldbank.org/topic/aid-effectiveness

[3] For example, Vietnam and Costa Rica could be studied just over two consecutive years each. Table 4, in the Appendix, presents the number of observation years for each country. Observation ends in 2012, with the exception of Syria, where the end year is 2010.

Table 1

Explained variable: Gross national savings % of GNI N = 736, R^2 = 0,268			
Explanatory variable	**Coefficient of regression**	**Robust standard error**	**T Student significance level**
Net ODA received as % of gross capital formation	- 0,565	(0,085)	$p < 0{,}001$
Net ODA received as % of the GNI	0,58	(0,122)	$p < 0{,}001$
Constant term	3,498	(0,041)	$p < 0{,}001$
Explained variable: Private investment % of GNI N = 751, R^2 = 0,439			
Explanatory variable	**Coefficient of regression**	**Robust standard error**	**T Student significance level**
Net ODA received as % of gross capital formation	- 0,533	(0,031)	$p < 0{,}001$
Net ODA received as % of the GNI	0,714	(0,044)	$p < 0{,}001$
Constant term	3,448	(0,022)	$p < 0{,}001$

Source: author's

High intensity of aid in relation to GNI stimulates the formation of private savings, and that of productive assets. Conversely, high intensity of aid in relation to gross capital formation hampers the accumulation of private capital. Clearly, inter-correlation between the two explanatory variables measuring the intensity of aid has limits. It seems that with relatively low savings rates in the given country, when the flow of ODA makes a substantial part of gross capital formation, ODA crowds out private capital in some manner. It is worth noting that results of the tests shown in Table 1 are strongly sensitive to sample selection. Focusing on just one quartile of any of the variables significantly changes both the explanatory power as measured with R^2, and the T significance of tests, yet not the signs of coefficients. Thus, strong idiosyncrasies are to expect in the sample, probably at the country level.

Justice first – principles before policies

The influence of aid upon the recipient societies depends mostly on its intensity, i.e. on the relative importance of capital provided through aid in proportion to the national income, and to the domestic formation of private capital. Among the biggest recipients of aid, only some receive it in amounts intensive enough to expect any social change at all. India, China, Indonesia, Philippines – these are only a few examples of huge absorption of aid accompanied by so low an intensity that expecting any significant change in response would be irrational. Simplifying a little, two distinct cases of aid are to consider. On the one hand, there are those big, low-intensity recipients, where aid does its primary job, namely equalizing social opportunities. On the other hand, there are the high-intensity recipients, where aid works as a factor of overall shift toward a new social order. Those high-intensity cases are usually emergent societies. They are either emergent in the strict sense of the word (e.g. Eritrea), or just profoundly shaken by recent, historical events (e.g. Iraq). Those societies tend to experiment with the established institutional patterns, and create completely new ones. That tendency to institutional experimentation is well confirmed, both by empirical research cite in the introduction, and by a somewhat forgotten strand of social theory (Heath 1957; McCallum 1970). Those emerging, experimenting societies are those, which the most frequently receive the label of "insufficient capacity building" when it comes to the assessment of results.

The exact role of aid in the recipient society depends mostly on the intensity of aid, as measured in amount per capita, or relatively to the national income. The greater the intensity of aid, the greater the probability that besides its elementary function of alleviating poverty, it becomes fully grown capital that gets accumulated and serves economic power. Trying to predict, plan, and possibly enforce any kind of social changes more complex than, for example, the bare fact of building 20 new schools is irrational, as far as the outcomes of aid programmes are concerned. It is impossible to plan, externally, complex institutional changes in emergent, self-experimenting societies, which are the recipients of the most intensive aid per capita. One of their greatest institutional challenges is to find relatively durable, and sustainable equilibrium between the slowly changing legitimation, and the quickly changing economic power of governments. Successful absorption of foreign institutional patterns might be just an event of the "*en passant*" type. The more intense is the stream of aid per capita, the more likely it is to push the political system out of its precarious balance. Pockets of illegitimate economic power, gone feral, and derived from the stream of aid, keep on emerging in those countries. On the other hand, in many areas of public mission, their governments stay economically weak regarding their scope of legitimation.

The situation, in which we cannot reliably predict the full social outcomes of a given policy resembles strongly to the veil of ignorance, as defined by John Rawls[4]. The present edssay proposes a paradigm of governing aid definitely oriented on the theory of justice as proposed by John Rawls. The intuition behind the paradigm proposed is that aid, as a global, social phenomenon, has grown old enough to gain its own balance between economic power, and legitimation. The key step to take now is to build legitimation. It is once more worth noticing that legitimation is not the same as legitimacy. The proposition to build legitimation for aid does not mean that aid has no legitimacy. Legitimation means that the so far history of the given social action has allowed building a broad normative base. Following H.L.A. Hart (Hart

[4] For a more substantial development see: Rawls, J., 1999, A Theory of Justice. Revised Edition, The Belknap Press of Harvard University Press, Cambridge, Massachusetts, Chapter I "Justice as Fairness", §4 'The Original Position and Justification', pp. 15 - 19

1961), we can assume that the normative base of aid should consist of both the primary rules of conduct, and of the secondary rules of recognition.

So far, aid is policy-oriented, thus mostly utilitarian, in the sense developed through successive works of David Hume (1739, 1751), Adam Smith (1759, 1776), Jeremy Bentham (1789), John Stuart Mill (1844, 1879), and Henry Sidgwick (1907). A noticeable, modern development of utilitarianism is to be found in the so-called economic analysis of law (see for example: Coase 1960; Brown 1973; Posner 1975, 1979, 1980).

Utilitarian approach requires predictability. Still, most aid programmes are haunted by something, that fault of a better word, can be called “the paradox of consistent volatility”. On the one hand, it is beyond any doubt that aid is a durable, social phenomenon, and has a significant place in the recipient societies. On the other hand, any particular aid program always contains that principle of “sustainable results”, which means that the social change brought by aid should be able to live a life of its own as if aid was to be removed at any moment. Consequently, we have a paradox: we manage a social action present through decades of history as if it was to end tomorrow.

Now, let’s pass to a positive description of governing aid on the grounds of John Rawls’s theory of justice. The normative base of primary rules should rest, of course, on the two principles of justice, as Rawls defines them. For the sake of theoretical completeness, let’s remind them. The first principle states that each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others. The second principle is the following: social and economic inequalities are to be arranged so that they are both reasonably expected to be to everyone’s advantage, and attached to positions and offices open to all. The complete theory of justice assumes lexical order of those principles, so that the second one has any relevance only insofar the first principle is satisfied. Yet, the exact problem that we want to address is that many, if not most of aid programs have to operate in a political environment that does not fully comply with the first principle. Aid is focused on distributive justice as encompassed by the second principle, yet it cannot make the whole recipient society more just. Justice is to be sought and found in the very way of donating and distributing aid. The main, long-term goal is to gain durable, sustainable legitimation for aid as a global project.

John Rawls wasn’t really explicit on the practical ways of implementing his theory, and on defining the secondary rules of recognition for actual institutions. As for that aspect, the works of Ronald Dworkin, more precisely his critique of the utilitarian approach to law, provide really useful guidelines (see for example: Dworkin 1975, 1980). The key recommendations to borrow from Dworkin's approach are the following: put principles before goals, construct principles into institutions, make those institutions so as to allow adjudicating hard cases independently of policy setting.

Thus, the most important step to make consists in using the known history of aid over the last six decades in order to identify the typical conflicts of interests that arise in connection to aid, and to construe a consistent set of rules, possibly recognized as binding rules of international law, to solve those conflicts. The core idea is that, although we cannot remove the paradox of consistent volatility from aid, we should use the quite abundant history of aid as a source of inspiration for the future. The typical field of regulation for such rules would probably the issue know today as "capacity building". The donors expect the institutional changes to go in some definite direction, whilst the recipient country changes in another, divergent direction. Is it fair? Is it just? Should it be the grounds for stopping the flow of aid or reducing it significantly? Today, such conflicts are set at the level of policy making. With all the due respect for the policy makers, the problem is that of a snake biting its tail, over and over again. The policy makers keep on returning to the same starting point in planning institutional changes in the recipient countries, with a very limited capacity to learn on mistakes. Adjudication, separate and independent from policy-making, is probably the best, institutionalized way to learn on past conflicts and past mistakes. Thus, an international arbitration body could be created to settle disputes that arise on the grounds of conflicting interests in aid programmes. That would create a completely different, institutional setting. First of all, it would allow the existence of legal claims concerning aid, in the global population of donors and recipients. Such an international arbitration could settle, for example, conflicts of interests between NGOs and governments, in the recipient countries, as for the actual control over the stream of aid. Similarly, conflicts arising from overlapping aid programmes could be settled through such international arbitration. There is strong evidence that international arbitration can contribute to building new institutions. The controversial area of investor-state dispute settlement is an example of new norms forming through adjudication (Nottage 2006; Bjorklund 2009; Schill 2011)

Someone could say: "Lawyers again? No, thanks!" Of course, creating a new system of international arbitration would create much controversy in the beginning. All international courts did, actually. Yet, it is worth once again to bring forth the main argument: aid, as a global activity, needs globally recognized, and the only way to create such a legitimation is to learn consistently on past experience and to communicate that learning in a consistent manner.

References

1. Ando, A., Modigliani, F., The “Life-Cycle” Hypothesis of Saving: Aggregate Implications and Tests, American Economic Review, vol. 53, no. 1 (March 1963), pp. 55–84
2. Barder, O., 2006, Are the planned increases in aid too much of a good thing?, Center for Global Development, Working Paper Number 90 July 2006,
3. Bentham, Jeremy, 1789, An introduction to the principles of morals and legislation, Clarendon Press, 1879.
4. Berhold, M., 1971, A Theory of Linear Profit Sharing Incentives, Quarterly Journal of Economics, vol. LXXXV (August), pp. 460-482
5. Berle, A., A., Means, G.,C., 1932, The Modern Corporation and Private Property, New York, Macmillan Publishing Co, 1932
6. Birdsall, N., 2007, Do No Harm: Aid, Weak Institutions, and the Missing Middle in Africa, Center for Global Development, Working Paper Number 113, March 2007
7. Bjokrlund, A., 2009, The Emerging Civilzation of Investment Arbitration, Penn State Law Review, vol. 113:4, pp. 1269 – 1300.
8. Box, G. E. P., Cox, D. R., 1964, An analysis of transformations, Journal of the Royal Statistical Society, Series B 26, pp. 211-252
9. Brown, J.P., 1973, Toward An Economic Theory of Liability, The Journal of Legal Studies, vol. 2, no. 2 (Jun., 1973), pp. 323 - 349
10. Coase, R.H., 1960, The Problem of Social Cost, Journal of Law and Economics, vol. 3
11. Dworkin, R., 1975, Hard Cases, Harvard Law Review, Vol. 88, No. 6 (April 1975), pp. 1057 - 1109
12. Dworkin, R., 1980, Is Wealth A Value?, The Journal of Legal Studies, Vol. 9, No. 2, Change in the Common Law: Legal and Economic Perspectives (March 1980), pp. 191 - 226
13. Fama, E.,F., Jensen, M.,C., 1983, Separation of Ownership and Control, Journal of Law and Economics, Vol. XXVI, June
14. Habermas, J., 1975, Legitimation Crisis, translated by T.McCarthy, Boston, 1975
15. Habermas, J., 1979, Communication and the Evolution of Society, translated by T.McCarthy, Boston 1979
16. Habermas, J., 1996, Between Facts and Norms. Contributions to a Discourse Theory of Law and Democracy, MIT Press, Cambridge, Massachussets, translated by William Rehg, Second Printing
17. Harsanyi, J.C., 1966, A General Theory of Rational Behavior in Game Situations – Econometrica, 1966, vol. 34, no. 3, pp. 613 - 634
18. Harsanyi, J.C., 1967, Games With Incomplete Information Played by “Bayesian” Players. Part I: The Basic Model – Management Science, 1967, vol. 14, no. 3, pp. 159 - 182
19. Harsanyi, J.C., 1968, Games With Incomplete Information Played by “Bayesian” Players. Part II: Bayesian Equilibrium Points – Management Science, 1968, vol. 14, no. 5, pp. 320 - 334
20. Harsanyi, J.C., 1953Cardinal Utility in Welfare Economics and in the Theory of Risk – Taking – The Journal of Political Economy, 1953, vol. 61, issue 5, pp. 434 - 435
21. Hart, H.L.A., 1961, The Concept of Law, 2nd edition, with a Postscript edited by Penelope A. Bulloch and Joseph Raz

22. Heath, S., 1957, Citadel, Market, and Altar. Emerging Society. Outline of Socionomy, The New Natural Science of Society, The Science of Society Foundation, Inc., Baltimore, MD.
23. Hirano, Y., Otsubo, S., 2014, Aid Is Good For the Poor, World Bank Group, East Asia and the Pacific Region, Office of the Chief Economist, August 2014, Policy Research Working Paper, WPS699
24. http://data.worldbank.org/topic/aid-effectiveness
25. Hume, David, 1739, A treatise of human nature, London: John Noon, 1978.
26. Hume, David, 1751, Enquiries Concerning the Human Understanding: And Concerning the Principles of Morals. Clarendon Press, 1902.
27. International Monetary Fund, 2013, Crisis Management and Crisis Preparedness Frameworks. Technical Note. Financial Sector Assessment Program – Nigeria, May 2013, report no. 80733
28. Jensen, M.,C., Meckling, W.,H., 1976, Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure, Journal of Financial Economics, (October), vo. 3, no. 4, pp. 305 - 360
29. Kaufmann, D., 2009, Aid Effectiveness and Governance. The Good, The Bad, and The Ugly. Special Report, World Bank Institute, February 2009
30. Knack, S., Eubank, N., 2009, Aid and Trust in Country Systems, The World Bank Development Research Group Human Development and Public Services Team July 2009, Policy Research Working Paper, WPS5005
31. Luhmann, N., 1992, Operational Closure and Structural Coupling: The Differentiation of The Legal System, Cardozo Law Review, Vol. 13, pp. 1419 - 1441
32. McCallum, S.,H., 1970, The Art of Community, Institute for Humane Studies, Inc. Menlo Park, California
33. Mill, John, Stuart, 1844, Essays on Some Unsettled Questions of Political Economy, A Penn State Electronic Classics Series Publication
34. Mill, John, Stuart, 1879, Utilitarianism, Reprinted from Fraser's Magazine, Seventh Edition London Longmans, Green, and Co. 1879, A Penn State Electronic Classics Series Publication
35. Modigliani, F., Brumberg, R., 1954, Utility Analysis And The Consumption Function: And Interpretation of Cross-Section Data, in: Post Keynesian Economics, ed. Kenneth K. Kurihara, the Trustees of Rutgers College in New Jersey.
36. Moss, T., Pettersson, G., van de Walle, N., 2006, An Aid-Institutions Paradox? A Review Essay on Aid Dependency and State Building in Sub-Saharan Africa, Center for Global Development, Working Paper Number 74, January 2006, Electronic copy available at: http://ssrn.com/abstract=860826
37. Ndulo, M., 2001, Constitution-making in Africa: assessing both the process and the content, Public Administration and Development, May 2001, vol. 21, no. 2, pp. 101 - 117
38. Nottage, L., 2006, The Procedural Lex Mercatoria: The Past, Present and Future of International Commercial Arbitration, Sydney Law School, Legal Studies Research Paper no. 06/51, also available at the Social Science Research Network: http://ssrn.com/abstract=838028
39. Piketty, T., 2013, Le capital au XXIe siècle, Editions du Seuil, Paris
40. Posner, R., A., 1975, The Economic Approach to Law, 53 Texas Law Review, vo. 53, pp. 757 – 782
41. Posner, R., A., 1979, Utilitarianism, Economics, and Legal Theory, The Journal of Legal Studies, vol. 8, pp. 103 - 140

42. Posner, R., A.,1980, The Ethical and Political Basis of the Efficiency Norm in Common Law Adjudication, Hofstra Law Review, Vol. 8, Iss. 3, Article 2, pp. 487 - 507
43. Radelet, S., 2004, Aid Effectiveness and the Millennium Development Goals, Center for Global Development Working Paper Number 39, April 2004, electronic copy available at: http://ssrn.com/abstract=1112641
44. Rawls, J., 1999, A Theory of Justice. Revised Edition, The Belknap Press of Harvard University Press, Cambridge, Massachusetts
45. Reality of Aid Management Committee, South-South Cooperation: A Challenge to the Aid System?, IBON Books, Quezon City, Philippines, ISBN 978-971-0483-50-1
46. Ross, S., A., 1973, The Economic Theory of Agency: The Principal's Problems, American Economic Review, vol. LXII (May), pp. 134-139
47. Seidman, R, 1987, Perspectives on constitution-making. Independence constitutions of Namibia and South Africa, Lesotho Law Journal, vol. 3, pp. 45 - 56
48. Schill, Stephan W., 2011, System−Building in Investment Treaty Arbitration and Lawmaking, German Law Journal, Vol. 12 No. 05, pp. 1083 - 1110
49. Sidgwick, Henry, 1907, The Methods of Ethics, 7th ed. (London, 1907)
50. Smith, Adam, 1759, The theory of moral sentiments, Penguin, 2010
51. Smith, Adam, 1776, An Inquiry into the Nature and Causes of the Wealth of Nations, Edwin Cannan's annotated edition (1776)
52. Weber, Max, 1920, The Protestant Ethic and the Spirit of Capitalism, The Expanded 1920 Version Authorized by Max Weber for Publication in Book Form, New Introduction and Translation by Stephen Kalberg (Boston University), Roxbury Publishing Company, Los Angeles, California
53. Wilson, R., 1968, On the Theory of Syndicates, Econometrica, vol. 36 (January), pp. 119-132
54. World Bank, 2013, Nigeria Where Has All the Growth Gone? A Policy Note, Report No. 78908, August 30, 2013
55. World Bank, 2013, Nigeria. Economic Report, No.1, May 2013

Appendix

Table 2 Sample of countries used for the panel-data analysis of capital formation

Country	Number of year-observations[5]	Country	Number of year-observations	Country	Number of year-observations
Algeria	12	India	22	Panama	10
Bahrain	23	Indonesia	13	Peru	13
Bangladesh	10	Islamic Republic of Iran	17	Quatar	23
Belize	11	Jordan	25	Saudi Arabia	14
Bolivia	13	Kazakhstan	11	Senegal	13
Bosnia and Herzegovina	15	Kenya	15	Serbia	13
Brazil	13	Lebanon	13	Seychelles	12
Burkina Faso	11	Lesotho	8	Sierra Leone	13
Cameroon	13	Liberia	13	Solomon Islands	10
Cape Verde	11	Libya	23	South Africa	13
Chile	21	Malawi	8	St. Vincent and the Grenadines	23
China	29	Maldives	16	Swaziland	12
Colombia	14	Mali	13	Syria	21
Costa Rica	2	Mexico	15	Thailand	17
Cote d'Ivoire	16	Montenegro	5	Trinidad and Tobago	13
Egypt	11	Morocco	17	Turkey	11
Ethiopia	21	Namibia	7	Uganda	16
FYR Macedonia	14	Nicaragua	16	Ukraine	15
Fiji	21	Niger	18	United Arab Emirates	14
Ghana	12	Nigeria	13	Uruguay	10
Guyana	6	Pakistan	11	Vietnam	3
		Zambia	8	Yemen	14

Source: author's

[5] All observations end at 2012, so the total length of the observation period, for the given country is 2012 minus the number provided in the table. Syria is an exception, with observation ending at 2010.