

Institutional Arrangements for Urban Conservation

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Abstract

Under rapid city expansion in the 20th century, efforts on urban conservations did not bear great fruit internationally although progress has been made. From institutional analysis perspective, we posit that the main crux of the problems lies in the misalignment of incentives among various agents in the market and the divergence of private and social costs. With reference to the most recent experiences in the US, the UK, Serbia, China and Hong Kong, this paper takes stock and investigate the key institutional efforts contributing to the urban conservation market, namely, i) international governance, ii) regulatory frameworks, iii) financial arrangements, iv) social engagements, v) participatory planning, and vi) market innovations. We contend that integrated analyses jointly carried out by scholars in urban conservation and institutions will, on the one hand, fill the gaps in their fields respectively, and, on the other hand, shed new insights on the understanding of the social and economic value of built heritage in achieving the long-term sustainable development of cities.

Keywords: Urban conservation, built heritage, institutional analysis, UNSECO World Heritage.

1. Introduction

Urban conservation has long been an undertaking in many economies, both developed and developing. While the societal demand for built heritage conservation is increasingly recognized, there exists misalignments of incentives among the building owners, communities, governments, politicians and policy-makers. As far as the building owners are concerned, the existence of a rent gap, between the existing and potential uses of their properties, is the major driving force for redevelopment. Even if these owners desire to preserve their buildings, or to undergo adaptive re-use, the case for economic viability could not be optimally met occasionally. From the community's perspective, nevertheless, the

historical and sentimental values attached to heritage buildings forming the urban landscape tend to be the focus in their evaluation process. While public involvement in urban conservation is frequently sought, the extent of the desire to conserve is bound by the realities of budgetary and bureaucratic constraints. Discrepancies between the social and private valuations of urban heritage, hence, are barely reduced under many situations.

Numerous institutional arrangements have been tried out to align the incentives and converge the social costs in the urban conservation market, such as UNESCO awards, historical building listing, outright public acquisition, adaptive re-use and transferable development rights etc. Each of these attempts entails government intervention, financial inputs, architectural conversions, property right enforcement mechanisms, public engagements and vigorous negotiations among the stakeholders etc. Public responses and evaluations of these attempts, however, are far from conclusive. Thus, more studies are needed to build stronger and relevant theory, both from theoretical and empirical perspectives.

This special issue aims to take stock and evaluate the institutional arguments towards urban conservation. A collection of articles focusing on institutional analysis provides better understandings on how the conservation market is at work. It differs from conventional studies on heritage conservation which focus on architectural and technical aspects, and is complimentary to the studies about the social aspects by connecting the findings to robust theoretical frameworks of institutions. To facilitate this special issue, a few special discussion sessions were arranged in the 11th Planning, Law, and Property Rights Association Annual Meeting hosted by The University of Hong Kong in February 2017. The latest efforts made in the US, the UK, Serbia, China and Hong Kong are presented in this special issue. Key aspects discussed in these articles included i) international frameworks, ii) government policies, iii) financial arrangements, iv) social involvements, v) participatory planning, and vi) market innovations. Though looking into the cases from quite diverse perspectives such as conservationist, urban scholar, policy researcher, lawyer and participant of community projects, this special issue attempts to give a message that misalignment of incentives and divergence between social and private costs in the urban conservation market can be dealt with by proper governance structures and institutional designs. This introductory paper will give a general discussion of each of the six key aspects, followed by brief introductions of the articles, and also the gaps to be filled respectively.

2. Urban Conservation

In this special issue, both the British term “conservation” and the American term “preservation” are used interchangeably as it covers studies in at least three continents, namely America, Europe, and Asia. As opposed to discussing the efforts to preserve historical heritage sites in remote parts of countries, we focus on the institutional arrangements of conservation in the urban areas. Urban conservation arouses the interests of institutional scholars because it concerns both the competition for land uses on the one hand, and preserving the common good on the other. Theoretically speaking, Pareto optimality could be achieved if appropriate institutional arrangements are devised for urban conservation.

In general, there are two types of situations arising in urban conservation. The first is to conserve historical buildings located in intensively developing cities. It is tempting for building owners to knock down historical buildings in prime locations because of the considerable rent gaps. Due to the huge financial implications, direct acquisition by the public authorities to preserve those buildings is not necessarily a workable solution. The second is when it is more feasible to re-purpose rather than re-develop relatively modern functional buildings that are in good condition, such as factories, warehouses and schools etc. The efficacies of these efforts are contingent on many factors, such as international and local regulatory frameworks, financial arrangements, political forces, architectural constraints and innovative ideas etc. The following sections will discuss these factors with respect to some recent international experiences.

3. International Governance

Collective efforts in the globe to protect world’s cultural heritage had emerged since the WWI, but were not actualized until after WWII when UNSECO launched the campaign to save the monuments of Nubia (areas between Egypt and Sudan) in 1960 (UNSECO 1960). Many sites of ancient monuments in Nubia were saved by UNSECO’s initiative to bring in financial and technical inputs from more than 50 nations. The success of this campaign led to the establishment of the World Heritage Convention in 1972. As of 2017, 193 member states of the United Nations are signatories of the convention, by which more than one thousand sites and properties have been inscribed as ‘World Heritage’. Parties of the convention have committed to conserving the heritage of outstanding cultural importance of humanity. The nominations of World Heritage are made by the state governments abiding to the convention, and once the sites and properties have been declared World Heritages, they will be conserved and protected by respective local (national) regulations. In addition, they are monitored by all nations entered into the World Heritage Convention. From institutional perspective, superimposing an international governance structure of urban conservation on top of the prevailing sets of national rules can help aligning

incompatible incentives for domestic economic development. It is analogical to the board of management structure in public companies (Hart 1995), which drives the executives to achieve goals beneficial to the society.

In 2011, UNSECO introduced the Historic Urban Landscape (HUL) approach to urban conservation. In the course of conserving the physical environment, HUL advocates concerted efforts to preserve the interrelated human environment and its tangible and intangible qualities. The policy and practice paper by Lee et. al. in this special issue proposes that the HUL approach should be put in place in rapidly-developing cities such as Hong Kong. By taking into account social and economic development in urban conservation, there will be greater societal-wide support from various stakeholders and bring about well-paced and well-balanced development of society. Using the HUL approach, the case study in their paper has won a UNSECO Cultural Heritage Conservation Award in November 2017. Since HUL is a relatively new idea, Lee et. al. has contributed a case study to illustrate how intangible human qualities could be preserved along with heritage in a densely populated city. The UNSECO award to the Hong Kong case has already aroused the interest across the globe to preserve the Chinese communities in overseas countries. For instance, the Chinese community in British Columbia in Canada is actively planning for the conservation of the Chinatown in Vancouver. They have attempted incorporating the HUL approach into their conservation programme (CBC News 2018).

4. Local Regulatory and Policy Frameworks

Market failure is the key argument for government intervention in the urban conservation market (Mason 2008). Local regulatory and policy frameworks have been the major driving forces for urban conservation initiatives in many countries. These frameworks define the institutions, incentive and governance structures that shape the interactions of the parties concerned. As North (1990) puts, efficient institutions are not the norms and institutional changes do not necessarily take place even if better outcomes are anticipated. So policy evaluation will enable scholars to better understand how the market is at work.

Under a transitional economy, the policy and practice paper by Djukic et. al. in this special issue discusses the impacts of planning decisions and legislation in the transformation of the historical centres in the Vojvodina Province in Northern Serbia. Four cities with diverse underlining settings and outcomes were chosen as illustrations. Serbia has undergone rapid transformations from a socialist to a market economy in the past decades. The planning and construction regulations in place are, in general, pro-

growth in nature, but the resultant development-led regeneration has resulted in negative outcomes, such as massive demolition, uncoordinated development and illegal structures. Belatedly, urgent calls have been made for the introduction of new regulations to protect the remaining built-heritage in Serbia. While the master plans in the post-socialist era have influenced the character of the historical centres, a path dependence (David, 1985) process appears to have taken place. Heritage buildings have been “accidentally” saved from the block transformation process largely due to, inter alia, a lack of new capital. The efficacy of the conservation regulations is dependent on a number of factors, such as the levels of city government intervention and the provision of separate codes for preserving built heritage.

In a similar vein, many historical buildings were demolished in Hong Kong during the colonial period as the economy took off in the 1970s, and the destruction of urban heritage continues to the present day. The main reason seems to be that the urban renewal strategy of the city has been largely dominated by a property developer-led approach, accelerated by the establishment of the Urban Renewal Authority in 2000. In carrying out the several massive-scale re-development projects, the government’s efforts in urban conservation have fallen short of people’s expectations. By and large, the “principal agent” problem (Jensen & Meckling, 1976) has not been resolved by this urban regeneration model. A historical building assessment and grading scheme was implemented shortly before the handover in 1997 and a “graded building” list was made available to the public in 2009. However, the signalling effect (Spence, 1973) has not brought any increase of value to the statutorily unprotected graded heritage buildings, and hence the policy has failed to save a number of privately-owned properties from being torn down. A new built-heritage conservation policy in 2007 has led to the Revitalization Scheme, which is a public-private-partnership (PPP) programme for the adaptive re-use of historical buildings. Lee et. al. in this special issue discuss the intertwining forces of social and economic factors driving the evolution of this policy in the city. One common feature of urban conservation in Serbia and Hong Kong, irrespective of their fundamental different settings, is the reliance on government intervention. It appears that, in both places, the government is the lower transaction cost (Coase, 1937) party than the market to resolve the problems. These two papers enable interesting comparisons between the governmental efforts for urban conservation in transitional and capitalist economies.

5. Financial Arrangements

Financial evaluations of urban conservation projects were dominated by traditional cost-and-benefit analyses (Harvey 2004) in the past. The problems of these methods are twofold. First, they could hardly

quantify the social costs into the analyses. Second, they overlook some bargaining mechanisms that may bring about creation of values.

The Italian government has actively devised fiscal tools to support the renovation of historical towns, which attract millions of visitors every year. It is in stark contrast to the Serbian cases illustrated in the policy and practice paper by Djukic et. al. in this special issue, which are subject to budgetary constraints and the loose planning regulations to preserve historical centres under massive city redevelopment. Some of these demolished heritages could have been saved if the transferrable development rights (TDR) system was introduced in Serbia, which enables transfer out of unused development potentials to finance the in-situ conservation efforts. TDR has borne fruits in some urban conservation programmes in countries like Italy and the US (Colavitti & Serra 2017).

Nevertheless, with reference to a few court cases in Hong Kong, Hou et. al. in this special issue argue that TDR is not necessarily a panacea. To implement TDR in a densely populated city like HK, imposing height restrictions requires an administratively strong government, which is less susceptible to judicial challenges by the private property owners and developers. Transfer out of the un-used development potential will also face many unforeseeable problems, such as valuation and impact assessments during the negotiation process. While the success factors of TDR programmes have been documented in an earlier international comparative study (Hou & Chan 2017), in this special issue Hou et. al. highlight the major constraints from legal and institutional perspectives. This paper has provided an interesting reference case for legal and urban scholars to design TDR programmes in the urban conservation markets, especially those are governed by the common law system.

6. Social Engagements

Social engagement has become an integral part of the urban development and planning systems in many developed countries. The conflicting aspects between public engagement and pro-growth development have been documented in many studies (e.g. Tam et. al., 2009). Based on the notion that the general public is in favour of preservation, one may anticipate that social engagement will be conducive to urban conservation. With reference to 105 heritage appeal cases in the Greater London Area, nevertheless, Mualam and Alterman in this special issue argue that social considerations are a two-edged sword in forming the planning decisions. Although the heritage policy in the UK places emphasis on social considerations, among all these randomly-sampled cases, only 48% entailed social considerations in the assessments made by the inspectors, such as memory value, community ties and

identity, building diversity and affordable housing, etc. These assessments have commented on both positive and negative aspects of social considerations. Surprisingly, cases assessed with positive social impacts (23%) are far less than those with negative ones (41%). However, there is no statistical evidence showing the correlations between social consideration assessments and outcomes of the appeals. Based on the findings, Mualam and Alterman suggest that decision-makers did not always accept the presumption in favour of conservation. When faced with conflicts of competing land use involving heritage buildings, they would not take conservation at face-value but would be concerned more about long-term social cost.

On the contrary, Lee et. al. in this special issue suggest that social movements have played a pivotal role in the development of conservation policy in Hong Kong. In 2006, the massive protests against the demolition of the Star Ferry Pier in Central, in which thousands of people expressed their collective attachment to the threatened pier, triggered the launch of a new built-heritage policy in 2007. Contrary to the anticipation that the government would make major enhancement to the 2007 policy in the 2015 policy address, only minor recommendations made by the public consultation of the 2007 policy review were taken up. It is speculated that the massive public disobedience campaign known as the Umbrella Movement that took place in 2014 was the cause of the sudden reversal of policy direction towards built-heritage conservation, in the government's attempt to avoid inviting more controversies from the public. Studies about the social engagement in the urban conservation market are far from adequate. These two studies have provided an analytical framework and socio-political arguments to make researchers better understand the intertwining relationship between public engagement and urban conservation.

7. Participatory Planning for Adaptive Re-use

Adaptive re-use has become a popular and cost effective measure for urban conservation. Some state-of-the-art development and architectural concepts, such as low-carbon features, can even be incorporated into preserving heritage buildings (Yung & Chan 2012). The efficacy, however, varies in different geographic locations within a country even with similar institutional settings and cultural values. Niu et. al. in this special issue study three representative cases of culture-led urban regeneration in China, namely Beijing 798 Art Zone, Shanghai M50 and Guangzhou Xinyi International Club. Primarily these cases concerned adaptive re-use of vacant industrial premises by introducing creative art clusters into the areas. Although the three cases are of a common nature, they differ fundamentally in their origins and outcomes. The Beijing and Shanghai projects emerged from

spontaneous gatherings of artists, and took off after supportive involvement of state-owned enterprises. This bottom-up approach is in contrast to the Guangzhou project, which was driven by a top-down government / real-estate developer-led approach. Most of the original residing artists in the Beijing case have since moved out because of the high rents, after the area became gentrified as a tourist spot. The Shanghai project is constrained by the densely built-up environment in which it is located. The Guangzhou case has been criticized for the limited participation of artists and contributions to the creative arts industry of the city. The development models of these three cases have been replicated in many parts of China, resulting in high degrees of similarity in cities across China. Niu et. al. contend that artists and NGOs should be encouraged to play a more prominent role in the development of cultural-led urban regeneration projects in China. It could be done by revamping the governance structures of the redevelopment models.

In another article of this special issue, Garcia documents her experience of participating in an adaptive re-use project in Chicago which involves the conversion of a vacant school campus into a “teacher’s village”. The programme is known as “Community As A Campus” (CAAC), which was initiated by a coalition of Puerto Rican community groups in Chicago. The renovated premises are intended to be a short-term affordable residence for schoolteachers committed to provide supplementary educational services to the children in the community. Educational-community related facilities have also been provided in the building. This project was underpinned by the concept of participatory planning, and the idea that the schoolteachers involved would better understand the needs of the community by living in the locality, enabled by living subsidies through the provision of affordable housing. CAAC has played an important role in matching the supply and demand of adaptive re-used premises. The studies about China’s art villages and Chicago’s teachers’ village have enriched the literature of participatory planning for urban conservation. They have also evaluated the institutional and cultural aspects attributing to the successes and failures of adaptive re-use of heritage buildings.

8. Market Innovations

Many institutional experiments and innovations have been attempted in the urban conservation market. Noticeable ones include the transfer of development rights, signalling, public-private-partnership, self-enforcement mechanism and participatory planning etc. Pure market solutions are not common, probably due to the enormous transaction and negotiation costs entailed in the process. From the perspective of institutional scholars, the key challenge of urban conservation is the lack of a mechanism through which the divergence between the private costs (to the owners) and social costs (to

the public) can be bridged. In his seminal paper, Coase (1960) depicted the concept of Coasean bargaining which could resolve the problem of social costs, such as pollution, through pure market mechanisms. The theorem states that so long as property rights are well delineated, convergence of private and social costs could be brought about through low-cost bargaining. In the context of urban conservation, there are signs that Coasean bargaining may help to internalize the positive externalities (historic and aesthetic value) and hence the heritage buildings can be conserved and go to the highest value users.

In 2008, recognising the unique cultural and architectural townscape, the historical core of the city of Penang in Malaysia, known as George Town, was declared a UNSECO World Heritage Site, and, as a result, it brought fame and attracted visitors. Subsequently, owners of dilapidated pre-war buildings have managed to sell their houses at higher prices. At a glance, it is a plain lesson of increasing asset value induced by productivity shocks (tourism branding in this case). Literally, it helps to exemplify how Coasean bargaining could be made to work in the urban conservation market. Inscribing George Town as a World Cultural Heritage essentially led to a clear delineation of an exclusive right to a share of the heritage value to the building owners. A cost-effective brokerage market has facilitated bargaining between the sellers and prospective buyers and investors. Thus, it is posited that if investors are willing to pay millions of dollars for antiques and artworks, in anticipation of their capital appreciation, there is no compelling reason to deny an international market for heritage buildings. One may be concerned that the maintenance costs of heritage buildings are far higher than those of antiques and artworks. Yet, the net operating income of the adaptively re-used premises, for instance, as hotels, retail shops, galleries, or exhibition halls, etc., could well compensate for the higher maintenance costs. For premises that contend with competing land uses, the policy of allowing the owners who obtain the initial assignment of property rights to transfer out the development right, could be a way out. Essentially, this pure market solution is underpinned by the Coasean bargaining framework. The key to the success of the market is to keep the transaction costs sufficiently low.

Infilling the UNSECO HUL approach of heritage and community conservations in the land readjustment mechanisms (Hong & Needham 2007) in peri-urban fringe areas may facilitate rapid city expansion on the one hand, and preserve cultural heritage on the other hand. Essentially, land readjustment is an application of Coasean bargaining. It refers to the mechanism in which private land owners contribute their irregularly shaped land parcels to the government in exchange of a smaller but well-planned replotted land lots of higher value. Preservation initiatives such as in-situ conservation or off-site

resettlement of communities etc. can be embedded into the land readjustment mechanism. It enables urban conservation to be a salient factor in the value capture process (Ingram & Hong 2012). There are huge potentials of using this new institutional mechanism to unlock land in suburb areas in cities like Hong Kong, while cultural heritage can be preserved at the same time.

9. Conclusions

The mis-alignment of incentives is an important and difficult issue in many markets. It is especially problematic in the urban conservation market because of the huge divergence between private costs and social costs, of which the former is escalating in many fast-growing economies because of competing land uses. Many different institutional arrangements have been attempted to resolve the issue, such as direct government intervention, public private partnership, public engagement, signalling, self-enforcement, transferrable property rights and Coasean bargaining. Though not in full strength, we have already made progress in the twentieth century to preserve precious cultural heritage.

This special issue takes stock of the institutional efforts in the urban conservation market. It should enable scholars and policy makers to better understand the institutional factors leading to the incentive and undervaluation problems for urban conservation projects. It also sheds new lights on new institutional mechanisms that can bring about sustainability of urban conservation in rapid city development. While it is a cliché to say that more should be done in the urban conservation market, it is advocated that any further efforts in urban conservation should be underpinned by systematic and thorough institutional analyses. In return, the empirical studies conducted in the conservation market may fill the gaps in and contribute to the literature of institutional studies. A joint force between the experts of both fields should enhance the understandings of how human heritage of the past can be conserved in the present for the future of mankind.

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