

China: Integrated Land Policy Reform in a Context of Rapid Urbanization

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INTRODUCTION

Over the past thirty years, China has undergone a profound economic and social transformation as it moves towards a market-oriented economy. Land issues are implicated in this ongoing transformation in numerous ways. The allocation and security of land rights are key factors in China's quest for economic growth and social stability. Land use choices influence the shape and sustainability of China's rapidly growing cities, as well as the future prospects of its agriculture. Revenue generated from land plays a critical role in local government finances and affects the relationship between different levels of government. And increasingly, the growth and stability of the financial sector are linked to land-based transactions and financing arrangements

For the last four years, the Development Research Center of the State Council (DRC) and the World Bank have been working together to develop a deeper understanding of the role of land policy in China, and to identify options for moving forward on key land-related problems and opportunities. This collaboration has entailed a number of interlinked activities,

including analysis and field work in more than a dozen provinces by a multi-disciplinary team of Chinese and international experts, in-depth studies by DRC in Shaanxi, Zhejiang, Guangdong, Sichuan, Shandong and Jiangsu, and policy dialogue at various levels of government.

The DRC/World Bank collaboration has given particular emphasis to the role of land in the context of rapid urban expansion. The spectacular growth of cities has been one of the most prominent features of China's recent history. From 1980 to 2005, the urban population grew from 19.4 percent to 43.0 percent. Urban growth has also been spatially dramatic, with the accelerating lateral expansion of cities resulting in the rapid conversion of agricultural land. The urban-rural interface defines an arena that is ideal for examining the complex interplay of all of China's most pressing land issues, including those of special relevance to the agricultural sector.

THE TRAJECTORY OF LAND POLICY REFORM IN CHINA

Land policy in recent decades has evolved continuously in response to China's economic and social changes. Under China's Constitution, urban land is owned by the State, while the principal holders of rural land rights are collectives. However, within the formal framework of State and collective ownership, individuals and legal persons have increasing opportunities to acquire private rights over land.

Since adoption of the household responsibility system in the late 70's, successive legal and policy reforms have both extended and deepened these private rights. Under the Land Administration Law (LAL), farmers have 30-year rights over land allocated to them by the collective; these rights have been further strengthened with the passage of the Rural Land Contracting Law in 2002. In the case of urban land,





the LAL provides for marketable use, rights of up to 70 years, and creates the legal foundation for an active urban land rights market. Most recently, on March 16, 2007, the National Peoples' Congress adopted a new Law on Property. This landmark law (the result of legislative deliberations spanning more than a dozen years) for the first time clearly articulates that all types of property in China—state, collective, and private—are entitled to the same level of legal protection.

Despite these advances, significant challenges remain. Addressing these challenges has been complicated by the absence of a unified and integrated land policy framework that could help negotiate effectively between competing interests and pressures.



THE PERSISTING DUALITY OF URBAN AND RURAL LAND TENURE SYSTEMS

An overarching characteristic of Chinese land policy at the urban-rural interface is the strict separation between the treatment of urban and rural land. These realms are subject to different rights regimes and are administered by separate institutions and rules. The sole mediator of the interface is the government—under current laws, all land entering the urban market must first be requisitioned by urban authorities before being re-allocated through one of several transfer mechanisms to urban users. There are essentially no avenues for direct dealing between those holding rights over rural land and those who ultimately

acquire it for new urban uses, limiting the farmers' ability to share in the appreciating value of their land as it enters the urban market. This is true whether land is destined for public, quasi-public, or even clearly private uses.

These features are unusual by international standards—no other major market economy in the world maintains as absolute a split between urban and rural land rights, administration, and markets as does China. Given the growing integration of urban and rural economies and the accelerating mobility of people and capital markets, the problematic ramifications of this approach have increasingly come to light.

Rural land users are disadvantaged. Most mature market economies seek to limit the exercise of government's taking power. Chinese law, by contrast, has basically no limits on the purposes for which government can use its powers of compulsory acquisition. Because of this, and the heavy reliance on this power for assembling urban land, the impacts of government land acquisition practices have widespread and significant social and economic consequences.

Requisitions have been a widely-publicized source of grievances. The Ministry of Land and Resources reports that over two-thirds of the complaints it received in recent years relate to disputes over requisition and low compensation. The compensation for requisitioned land, based on the value of land's agricultural use, is low compared to the value of the land for urban construction. Perceptions of unfairness are exacerbated by the growing inequality between urban and rural incomes and livelihood options. Moreover, the issue is complicated by the fact that there are three levels involved: government, the collective as landowner, and individual farming households—the distribution of the compensation between collectives and farmers is often not transparent and a source of discontent. As DRC's field work in three provinces has confirmed, a prevailing feature of land acquisitions has been that farmers are largely uninformed about the process and their rights, and unaware of or unable, to use effectively mechanisms for seeking redress when grievances arise. The central government has tried hard in recent years to respond to these problems, by issuing policies designed to raise compensation standards and improve distribution, but implementation at local levels has been weak.



The problematic relationship between collective management and farmers when distributing compensation relates to the broader issue of the relative weakness of farmers' land rights. Despite a progressive enhancement of rights over the last two decades, farmers' rights remain limited and vulnerable in a number of ways. Farmers are not yet allowed to use land use rights as collateral to access credit and have unclear and severely constricted rights over residential plots. The implementation of Rural Land Contracting Law has been weakened by the absence of an effective process for farmers on challenge violations of their rights from collectives, such as illegal land readjustments. Farmers also have limited knowledge about their rights, which helps facilitate abuses of power and corruption.

Local governments rely excessively on revenue from land transfers and land-related financing. The nature of the rules governing the property market distort local government incentives, both at the institutional and personal levels, encouraging the conversion of agricultural/collective land into urban/state land as swiftly as possible. Local governments depend heavily on the income generated from land transfers to supplement regular budget funds and to finance urban expansion. Studies consistently show that land transfer fees account for some 30-50 percent of total sub-provincial government revenues. Such fees are a one-time revenue item that are not sustainable in the long-run because land available for conversion is limited. These revenues are often kept off-budget, making their use non-transparent.

Local governments increasingly use requisitioned land as collateral for bank loans through vehicles known as "land banks." In some cities, 60-70 percent of total city construction was financed from loan proceeds secured through government-run land banking. This remains an activity on which little comprehensive data exists and for which the regulatory framework is seriously underdeveloped. Nationwide, the volume of land bank-related lending appears to be large and could pose serious risks to an already fragile banking system.

Inefficient forms of urban growth and difficulties in reducing the rate of farmland conversion. The artificially low price of rural land encourages land-intensive and inefficient urban growth. One survey

conducted by the government showed that about 43 percent of requisitioned land remains idle. The resulting loss of farmland is seen as a serious threat to food self-sufficiency. The government estimates that the annual rate of farmland loss cannot exceed 0.3 percent in order to reach the official goal of 90 percent domestic production of consumed food, but by 2002 the rate had accelerated to 1 percent. The central government has accordingly tried to impose tighter controls on farmland conversion. However, it will be difficult to suppress widespread evasion of these controls if no steps are taken to fundamentally alter the economic incentives that currently drive rapid urban expansion.

OPTIONS FOR MOVING FORWARD

Addressing the above challenges requires an integrated approach to land policy, one that moves in the direction of loosening the government's monopoly over the primary land market for urban land, reducing disparities between rural and urban tenures, and creating a more sustainable and rational foundation for local finances and land use planning. Towards these ends, a number of recommendations emerged from the DRC/World Bank collaboration, which is summarized below:

Clarify, secure, and broaden the rights of rural and urban land users to allow them to participate more fully in economic growth through the sustainable use of their property. A number of steps could be taken to strategically strengthen and expand land rights, some of which are already being tested in pilot settings. These include the following:

- Making collective construction land marketable and allowing collective landholders to sell directly to new users in the case of land conversions for "non-public interest" uses. Pilot experiments in regulatory reform for collective construction land have been conducted in a number of provinces with some promising results;
- Strengthening efforts to protect rural land users from improper actions by collective leadership, both in the context of government land requisitions and in the implementation of the Rural Land Contracting Law;
- Introducing the right to mortgage farm land held under 30-year contracts;

- Developing an effective registration system for all land rights, including rural land. No. 1 Document of 2008 has recently embraced this proposal, stating that “the Government should accelerate the establishment of land rights registration system in rural area.”
- Resolving ambiguities concerning the nature of collective ownership;
- Defining farmers’ housing plot rights as perpetual usufruct rights and expanding their transferability; and
- Strengthening legal literacy of farmers and officials. Local studies have convincingly demonstrated that concerted efforts to improve the understanding of rights and processes have measurably improved the impact of legal reform on the ground.

Ensure fair treatment and adequate compensation for those affected by compulsory acquisition.

The central government has engaged in serious attempts to address the well-publicized problems associated with requisition in recent years. As DRC’s provincial level research has shown, important local experiments to protect farmers’ interests are also underway in different parts of the country, including efforts to better integrate farmers into social security schemes. Overall, however, further attention still needs to be targeted on the following:

- Revising methods for calculating compensation towards more equitable and socially-acceptable standards. In the short term, this means modifying existing formulas to ensure a more just quantum of compensation. In the longer term, it is likely and desirable that the calculation of compensation will more closely track the approach in other mature market economies in which the market value of the land rights serves as the foundation.
- Taking steps to ensure that compensation reaches the dispossessed farmers (e.g., reducing intermediary steps of compensation distribution);

- Experimenting with alternative forms of compensation (e.g., reserving some requisitioned land for commercial uses by dispossessed farmers), while ensuring that farmer’s participation in the alternative forms of compensation is voluntary and based on informed consent; and
- Considering limits on the purposes for which land can be taken by government, a proposal that will necessarily need to go forward in combination with steps to loosen the current government monopoly on rural land entering the urban market.

Enhance the role of land as a sustainable foundation for local government finances and improve the efficiency of urban land use.

Moving towards these goals implies the following:

- Implementing pilots to test the feasibility of introducing property tax as an alternative source of local government finance;
- Re-assessing the purpose and function of land banking and better regulating its operations;
- Reviewing current incentives for land use conversion, for example, examining the impact of subsidizing land for industrial use by setting artificially low prices; and
- Promoting the coordination and integration of urban and rural planning functions.

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