

**Dealing with “Small Property Rights” in China’s Land Market Development:
What Can China Learn from Its Past Reforms and the World Experience?**

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Abstract

This research aims to examine the knotty issue in China's continued land market reform, the so-called "small property right" (SPR) referring to the ambivalent right to the commercial properties developed on rural "collective" land without first going through the legally required state intervention. Despite the various government efforts to halt this "illegal" practice, SPR has been spreading fast across the country, causing concerns to many. At the core of the problem lays the fundamental need for China to broaden its land market reform by extending clear and secure property rights to farmers so that the latter become full participants of the modernization progress and benefit from it. The weaknesses in the existing land laws and administration, including those governing land expropriation and land-based local government finance, underline the SPR difficulties; and reforms in these aspects are essential if the SPR problem is to be effectively addressed. Moreover, China can benefit from the experiences of other countries which have encountered similar land use conflicts in fast-paced development, whereas China's experience—both successes and failures—can offer valuable lessons to the rest of the world.

Keywords: Land and Real Estate Markets, Informal Land Market, Land Market Regulation, Local Government, Security of Tenure

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addressed in this study. The many case studies unearthed further evidence the keen interest of domestic academic and policy institutions in searching for solutions. In return, by pulling together the various voices, the authors hope to contribute a multifaceted perspective that will help Chinese scholars and policy analysts in their further researches and cross-sector dialogues in this complex and sensitive policy area.

Finally, the authors benefited significantly from the literature and empirical researches by numerous land policy experts worldwide, including those of the World Bank Group, Lincoln Institute and many country experts including those of developing countries, whose shared interest is in how to manage land use conflicts in supporting modernization and promoting fast, inclusive and sustainable development. Their research results and perspectives are heavily cited in this study to benefit readers in China. In return, by adding an exciting case of China, the authors wish to contribute useful inputs to the continued global discussions.

All opinions expressed in this paper are those of the authors and do not necessarily reflect the views of Lincoln Institute of Land Policy, or other institutions and individuals which supported the study. Any errors that might be contained in the paper are entirely the responsibility of the authors.

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Dealing with “Small Property Rights” in China’s Land Market Development: What can China learn from its past reforms and the world experience?

Introduction

China has come a long way in its land market development. In 1979, when the country embarked on its historical economic transition, nearly all land was collectively owned and collectively farmed in rural areas and state-owned and state-allocated in urban areas. Land transfers to private users were generally prohibited. Today, Chinese farmers work on divided land plots, albeit still “collectively owned,” under an individual incentive-based “household responsibility” system. Urban citizens have gained even stronger property rights. They can own and freely transfer their residential properties based on a long-term land use right (LUR). Meanwhile, industrial and commercial entities have legal access to state-owned land, relatively well-located and well-service, based on the same LUR system. Moreover, banks widely accept the LUR as mortgage for extending loans to businesses and urban residents.

China has achieved this transition by following a step-by-step reform path, emphasizing pragmatic results in support of its prioritized development goals. Typically, radical changes come first as small-scaled experiments carried out in selected localities. After initial positive results are reached, the experiences are replicated across the country. Often, amendments of the laws come as the last step to instill the practice already on the ground. This approach, characterized by the government as “crossing the river by feeling the stones under water,” has worked to minimize political pushbacks and social risks typically associated with land policy reforms. It is this approach that has distinguished China from many other transition economies whose “big bang” reforms have been frequently accompanied by chaotic and sometime very painful transitions.

However, China’s land market development has not been problem-free. For over three decades, it followed a dual-tracked reform strategy, separating urban and rural systems and persistently in favor of the former. The strategy has worked to accelerate industrialization and urbanization underpinning China’s economic growth, but it has also widened the gap between the urban and rural systems. By and large, the rural transition has been left in limbo, with the “household responsibility” system little-changed since its inception more than thirty years ago. In contrast to urban residents who have relatively clearly defined and freely transferable property rights, farmers continue to be subject to a rather vaguely defined and mostly unregistered “collective ownership” of land, which limits them to use but not capitalize or transfer the land at market. This systemic discrimination contributes to enlarged income gap between the urban and rural citizens, causing growing dissatisfactions among the latter. It has also made overall land use planning and integrated land market development difficult.

In conjunction with this enlarged imbalance, the state has maintained an excessive and monopolistic control over rural-urban land conversion required to meet the need of urbanization. If in the earlier stages such a strong role played by the state contributed to land consolidation and infrastructure development needed for the quick industrial and urban take-off, its perpetuation has led to relentless land expropriation, driven by local governments eager to meet their short-

term GDP growth goals and extra-budgetary income needs. Moreover, official compensations for farmers whose land is taken have remained notably low, usually a fraction of less than 10 percent of the market value of the land once converted to urban use. These have caused resentment among farmers, especially in areas adjacent to large and rapidly expanding cities where farmers have been losing land rapidly. In recent years, farmers across the nation have stepped up self-defense actions against expropriation, including traveling to the capital city to make public appeals and militant standoffs against local authorities. These have caused social distresses and become an increased concern of the central government.

Against this backdrop, a new phenomenon, called “small property right” (SPR), has been spreading fast in recent years. Broadly defined, SPR refers to the commercial and residential properties developed by farmers on their land and sold or rented at the urban market. Such development and transactions are illegal according to the existing law, which prohibits farmland to enter land market without first involving state expropriation. However, despite its illegality, SPR has quickly attracted farmers across the country and, indeed, gained popularity among urban low-income property buyers and renters. Unofficial but widely accepted estimates suggest that at least 6 billion square meters of SPR properties have already been built in China, accounting for a significant 20 or more percent of the nation’s total constructed urban area today. Furthermore, SPR has particularly thrived around large metropolitans—including Beijing, the nation’s capital, and Shenzhen, the fastest growing city in China—where the urban expansion has been most rapid and where land value appreciation the highest.

The emergence of SPR development has caused mixed concerns and triggered heated policy debates in China. Whereas all agree that the farmers’ action is against the current law, many argue that it may have a legitimate reason. Some see SPR as a way in which farmers are defending their property rights and fighting for their share of the development benefits. Others find SPR properties useful supplements to low-income housing supply acutely in shortage in growing cities. However, even for the supporters, the SPR option is not ideal. Over-shadowed by its “illegality,” such property development carries high legal risks for either the buyers or sellers. The official view of the government is clear: SPR is illegal and therefore should not be tolerated. Less openly expressed but perhaps more feared is that SPR erodes the hitherto state monopoly over farmland conversion and, thus, the revenue source of local governments. There are also increasing concerns about the lack of compliance of SPR constructions with zoning, construction, taxation, and other public interest based regulations.

Dealing with the SPR problem appears difficult. Repeated orders by the central and local governments to halt the practice have apparently had little effects. Some suggest stepped-up law reinforcement, punishing those who dare to break the law and deter those who want to follow suite. Others disagree. In the opinion of some outspoken scholars, farmers have been driven to the practice in disrespect of the current law because the current law has largely failed to respect their rights and interests. If this is true, one must ask, how can reinforcing a law that is the cause of the problem be the right solution to the problem? Besides, given the scale of the spread and the broad involvement of grass-root citizen, many question the practicality of the resort to punishment tools. Tearing down the properties by force would not only be extremely costly and wasteful, but also risk social unrests that no governments would want to provoke.

The caution of the government has been evident on the ground. Despite the many harsh words used, actual demolition cases have been extremely rare. On the contrary, more and more local governments have come to compromise with farmers in order to break the stalemate. In the name of “experimentation,” they are creating various new models ranging from increasing compensations to farmers when acquiring extra farmland, to being more inclusive and consultative with farmers when initiating new land consolidation schemes. Some have gone so far as to test ways to let farmers gain the full right to use, develop and transfer land, as long as they are conditioned by established land use planning, zoning, environment and resource protection, taxation, and other regulatory requirements.

The flurry of the many models creates certain confusion. Some argue that, while experimentation served as a useful approach to reforms in the past, it carries inevitable risks and limits. Making mistakes in trials is likely, and can become counterproductive if not timely spotted and corrected. Meanwhile, moving a step at a time can make one easily go astray if the focus is only on near-sighted targets. More importantly, as China is entering what the government calls a “deep-water zone” of reform, issues surfacing are much more complicated while feeling the stones in the increasingly deep river becomes difficult. Standing still is not an option, but taking wrong steps is dangerous too. For these reasons, there is a shared feeling in the country that more coherent policy guidance is urgently needed in order to help all to move in the same right direction. Many also find that now is the time to have stronger legal and institutional vehicles that are needed to carry the reform safely to the other side of the river.

The present problems China faces are daunting, but not unsurmountable. China has encountered difficult situations many times in the past, and each time it managed to overcome the hurdles to continue the reform course. Breaking down the “collective farming” in the early 1980s and making state land transferable to private investors and citizens in the 1980s–1990s are just two most well-known examples. China has also made consistent progress over the years in improving laws and regulations regarding citizen’s property rights and general land and resource use management; it has developed market mechanisms, such as public land auctions, to bring more efficiency and transparency to state land allocation. None of these breakthroughs came without political risks and pushbacks. The current challenge should be no difference. As many believe, regardless the many legal and technical difficulties, the key to success has always been, and will continue to be in strong leadership vision and political will.

In this quest for continued land market reform, China can benefit from the experiences of other countries, and, in return, its success or failure will be of great interest of the rest of the world. Land use conflicts are common in fast-paced development, in China and elsewhere in the world. As economies modernize, traditional land tenures and land use patterns are under the pressure to give away to new development demands. Maintaining the status quo and refusing new development, as seen in some parts of the developing world, are not best options. However, when advancing changes in support of modern development, land policy makers must be sensitive about the social impact, and take special care of the needs and interests of traditionally organized, and often disadvantaged, socioeconomic groups. Most importantly, governments must respect and protect people’s property rights, if the goal is to promote a viable and fair market economy. Failure to do so can make the poor poorer, sow the seeds of social grievance, and defeat the development goal in the end. On the other hand, as seen in some places, when public

policies and programs include farmers and other traditional groups in new economic opportunities, the results are much better and more sustainable. After all, farmers are important producers and consumers in all developing economies. Getting them into the modernization mainstream is not only a matter of social justice, but also good economics.

* * *

This study aims to examine the current challenges in China's land market reform, by focusing on the so-called "small property right" (SPR) phenomenon. The topic is critically important for several reasons. First, the scale and speed of the SPR spread is so prominent and its potential socioeconomic impact so large that no one closely watching China's continued economic transition can neglect. Secondly, the issues that have caused the SPR phenomenon—such as weak tenure rights for farmers and relentless land-taking by local governments—are fundamental and must be addressed as priorities in China's further land market reform. Thirdly, and as importantly, the SPR challenge, uniquely Chinese as it may seem, represents an unresolved quest common in the developing world. As more and more countries are striving for accelerated growth through industrialization and urbanization, governments need to find a way to support the urban land development demand on one hand and minimize the potential conflicts against the rural poor on the other. How China succeeds in handling the challenge, therefore, should be of a great interest to the international development community, and the vice versa.

The study is divided into three chapters. Chapter I provides an overview of the SPR phenomenon, including the trace of its roots. What is SPR? How big is the problem? And, most importantly, why did it happen? By drawing from domestic studies and media-based reports, as well as, where available, official data, it analyzes several major issues causing SPR, i.e., the farmers' rights, the power of the state expropriation, the current fiscal structure that led local governments to the overdependence on land-based financing, and the problematic shortage of affordable housing supply in rapidly growing cities. The fact that these factors have reinforced each other in driving the SPR trend suggests that the problem could not be resolved through partial course, but require combined policy, legal and fiscal reforms on multiple fronts. Chapter II starts with a retrospective view of China's land market reform journey, followed by a probing of the on-going experimentations undertaken by local governments in dealing with the difficulties of rural-urban conversion. The chapter highlights the critical role of land reform in China's fundamental economic transformation and development. It recognizes the pragmatic, experimental approach that has helped the country overcome many of the legal and institutional hurdles as well as political resistance in its past land reforms; but it also suggests an urgency at the present stage to have a clearer vision and more determined policy decisions at the top in order to prevent further confusion and guide the whole country to move in the right and more coherent direction.

Chapter III draws relevant international experiences that may provide China useful inputs in making decisions for the next stage. The chapter argues that China is not alone in facing land use conflicts in a rapid urbanization process which is, indeed, a world phenomenon. Urbanization is largely driven by the market force, and it generates economic efficiency and growth; but it also causes geographic imbalance and income divergence. Public policies are therefore needed to regulate the market and safeguard general public interest. For most governments, intervention in

the land market is a high art yet to be learned. It requires concerted policy, legal and institutional actions, which itself is always a major challenge to most developing countries. The chapter provides some success examples of how governments in other countries managed to deal with the challenges similar to China's. It shows that, despite the vast variety of countries' economic and social conditions, as well as their legal and cultural traditions—all of which frame the respective land systems in countries—there are basic principles that all countries can follow if the goal is to achieve inclusive and sustainable development. Among those, respecting and protecting all citizens' rights, including those of farmers and disadvantaged social groups, are universally essential.

This study is based on researches conducted in 2013, under the sponsorship of Lincoln Institute of Land Policy. It benefited from an impressively large amount of literature (including media reports) on the topic that has emerged in China in recent years. Based on the literature review, the authors conducted a one-month fieldwork in the first half of 2013, covering Beijing, Shenzhen, Jiangsu and Zhejiang, to gather first-hand observations. The field trip allowed the authors to have face-to-face exchanges with a range of domestic scholars, government officials, real estate developers, and local community representatives, to gain insights of different perspectives.

“Small Property Rights”, Big Challenge

A Manifested Problem

Small Property Right (SPR), a term known to only few till recent years, has become a hot topic for everyone in China today. Broadly defined, SPR refers to the ambivalent right to the residential and commercial properties developed on rural “collective” land by villages and individual farmers, sometimes in collaboration with commercial developers. Such properties are then transferred by farmers directly to the urban market, through sale or renting, to gain the financial returns. SPR developments and market transactions are in straight defiance of the national law, which requires a due process of land expropriation and reallocation by the State before any rural land can enter the urban land market. Because they operate outside the formal system, they often fail to comply with the established zoning and construction regulations or the tax system. SPR is, thus, considered *illegal*. The right cannot be registered and is not protected by law. Its transactions create an *informal* market where the buyers and sellers carry their own risks.

Despite its illegal nature, and the repeated government effort to halt its practice, SPR has proliferated rapidly across the country in recent years. There has been no officially announced data on SPR properties, but a total of over 6 billion square meters has been consistently referred to by media reports and academic studies.¹ This would account for 20% or more of all the

¹ There was obviously a nationwide SPR inventory checking mandated by the State Council in 2010, and its completion was announced by senior officials from the Ministry of Housing and Construction. However, no specific data was officially announced; nor has the “6 billion” be denounced. See Ministry of Housing and Construction: “Small Property Right Housing Will Not Be Legalized,” May 2010 http://www.360doc.com/content/10/0524/07/91243_29193735.shtml; Also, see Ifeng News (凤凰网), 2013 <http://house.ifeng.com/special/xiaochanquanfang/>

constructed urban area in China. According to one specific study, from 2000 to 2005, SPR contributed over 40% of the new housing supply in all first and second-tier Chinese cities (NDRC 2008). Another study estimated that more than 30% of all the properties put on the nation's real estate market in 2007 were of the SPR category, adding up to a total of 6.4 billion square meters by the end of that year. Assuming that an average household occupies 90 square meters of space, SPR probably affects the livelihood of over 70 million households; and, if each household has 3.5 people, it supports 250 million people living across the country (Sun, Wang and Wang 2011).

Notably, SPR construction has been most active in and around large metropolitan cities, where economic activities are highly concentrated and expansion of urban boundaries most dramatic. Beijing, the nation's capital, has been under the spotlight of SPR watch, with reportedly 20% of all its property transactions in 2007 reportedly SPR-based.² In Shenzhen, the fastest growing city in China bordering Hong Kong, over 40% of the 240 million square meters of housing inventory in the city by 2007 purportedly fall under the SPR category.³ In Guangzhou, another mega-city in southern China, SPR constructions are visible in its numerous "villages in cities" (ViC).⁴ In one of its old districts alone, there were reportedly 138 such "villages" in 2006 (Lan 2003). This embraced an estimated 9 million square meters of SPR housing space, an equivalent of twice the whole housing supply in Guangzhou that year.⁵ Other cities that have frequently made names in SPR news include: Chengdu, Chongqing, Nanjing, Jinan, Sanya, Shijiazhuang, and many more.

The Multifaceted Challenges

The emerging SPR phenomenon has led to mixed socioeconomic consequences. For the farmers who have developed SPR properties, selling and renting out such properties may yield incomes that are several times more than the gains if the land were used for farming or reclaimed by the state for development. For those who purchase or rent SPR properties, usually the low-income groups from cities, SPR provides an affordable housing option as such properties are much cheaper than those at the formal markets. However, these gains are not without costs. Shadowed by the "illegality," its sellers and buyers alike bear a high legal risk, and SPR property owners face an uncertain future. For these reasons, SPR properties tend to be valued much lower than their market prices. Banks, in the meantime, are not allowed to accept SPR for mortgage purpose, making SPR even less valuable to the property owners.

² By estimate of China Real Estate Association (中国房地产协会); see Zhang, Min (张敏) 2007.

³ This is based on an incomplete housing inventory estimate by Shenzhen Bureau of State Land, Resources and Construction; see "Exploration of Shenzhen's SPR Problem" (深圳市小产权房问题探索) *SEZ Economy 2011*(特区经济). In the next few years, according to unofficial estimates, SPR constructions continued to expand and reached 379,400 buildings, with an aggregated space of 405 million square meters by the end of 2011. This was almost half of Shenzhen's total constructed area. See "How to Resolve Shenzhen's Problem of the SPR Housing" (深圳小产权房如何破局) *Southern Wind Window* (南风窗), 2012.

⁴ "Villages in cities" (城中村) are the result of the early massive urban spatial expansion. During the sweeping expropriation process, many villagers refused to relocate. Frequently, to avoid the delay of the "new city" creation, local governments opted to leave some villages behind, while focusing on building up the areas around them. "ViCs thus created are common not only in Guangdong but also in many other metropolitan cities in China, including Beijing and Shanghai.

⁵ "Rural residential houses entering the market—Who benefit from it?" (农宅入市，为谁松闸) 2007, *South China Weekend* (南方周末)

To the government, SPR has given rise to various concerns. Some fear that the invasion of the exclusive power of the state over rural-urban land conversion undermines one of the last state controls over the factor markets. Others worry that the SPR development diminishes the pool of convertible land, thus threatening an important source of “land-based financing” for local governments. Still others predict that the trend would eventually lead to farmland depletion and the creation of landless farmers. SPR also causes concerns for those responsible for land use planning, urban zoning, and environment protection. The SPR development, carried out spontaneously by villages and individual farmers, responds more to the short-term market demands than the long-term development needs. The fact that it often circumvents the regular zoning and construction procedures generates worries about the building quality and environmental safety. Furthermore, SPR developers are resented by many as repugnant “free riders” of public infrastructure, such as roads, utilities, schools and hospitals, and other services to which they do not contribute their shares through taxes and charges. In the worst situation, SPR constructions mess up strategic master planning, or make the plans’ implementation difficult. Some SPR activities take place on environmentally and ecologically fragile land, which causes damages that can be difficult to reverse once done.

These concerns are reflected in the repeated central government documents since 2007, to denounce the *illegal* practice and warn the public about the risks in developing and trading SPR properties. Internally, there has been increased administrative pressure on local governments to act to curb the spread of SPR. (See Box 1.1.) However, the effectiveness of the central government’s callings seems limited. Local governments, albeit concerned about the SPR proliferation, appear to be ambiguous when taking actions against it. Given the scale of SPR construction and the broad social groups involved, tearing down the properties by force does not seem to be a practical solution; and it carries a high risk of social unrest that no local government wants to provoke (Zhao and Shi, 2012). Consequently, despite the repeated banning by the central government, SPR has not only remained but risen faster in recent years.⁶

⁶ China Broadcast Network 中国广播网 2012, “Small Property Rights Multiplies Despite Repeated Restrictions” (小产权屡禁不止越查越多”) (<http://dl.house.sina.com.cn>, 2012年9月24日)

Box 1.1 Central Government Documents Denouncing SPR Construction and Trading

- Aliquam at interdum mi
1. In June 2007, Ministry of Housing (Original) issued a warning to those urban residents who purchased or intended to purchase housing property in rural villages that these deals were illegal and against the current rules and regulations of land management of the government.
 2. In December 2007, the State Council Executive Meeting Committee issued an ordinance that urban residents were not allowed to purchase or own rural residential land and housing property nor to claim any Small Property Rights.
 3. In January, 2008, the State Council issued an “Ordinance of Strict Execution of Laws and Policies regarding Collectively Owned Construction Land in Rural Areas” which specifies that no local experiments and explorations in land use management system can violate the national land use laws and regulations.
 4. On July 15, 2008, the Ministry of Land and Resources issued a document on the verification and certification of rural residential land rights, which clearly prohibited issuing any property rights verifications for Small Property Rights.
 5. On September 1, 2009, the Ministry of Land Resources issued “The Ordinance on Strict Management of Construction Land and Speed-up the Development of Approved Land Use”, reiterating that no local governments were allowed to issue any Small Property Rights certifications.
 6. In 2010, the State Council ordered a nation-wide census investigation on Small Property Rights. In May, the Land of Housing and Urban-rural Development admitted that the census was completed, but the result was not publicly announced.
 7. In 2012, the Ministry of Land Resources reiterated to the local governments in charge of registration and certification of rural collective land rights that SPR properties were not allowed to be certified or be legally protected.
 8. In March 2014, Minister of Land Resources spoke to the public that SPR properties were illegal and would not be tolerated. However, some “differentiated treatments” might be needed in resolving the problem.

Source: Authors

The popularity of SPR among the general public is evident in a pulse-taking survey by iFeng, a Hong Kong based multimedia network with growing followers in China. Within one week after the survey was put online, it attracted over 80,000 participants, mostly urban residents who are on the potential demand side of SPR properties. Nearly 80% of the responding netizens admitted that they had either bought or would consider buying SPR properties because of “its affordable prices.” A hefty 74.4% respondents were in favor of having more SPR properties built and traded, on the ground that it “helps solve the housing problem for the low-income groups.” Over 70% respondents believed that the government should find ways to “legalize” SPRs; and only less than 5% supported government actions to demolish such properties already built. (iFeng 2010)

Where the Roots Are

As the impact of SPR phenomenon keeps increasing on multiple aspects of the country’s socioeconomic development, discussions on the topic are heating up among domestic scholars and policy analysts. Scholars have generally questioned whether the SPR problem can be effectively addressed without carefully tracing its roots to the current policy, legal and institutional systems governing China’s land market (Chen 2009; Zhang and Liu 2009). Questions frequently asked are: What has caused the SPR emergence, and why is it so resilient? Is it driven by a distorted land market? Or is it the result of a flawed legal system? If the problem is with the system, can it be resolved by enforcing the system rather than reforming it? What new reforms are needed to improve the system? (Lu 2012; *Economic Observer* 2013)

Scholars and policy analysts have approached the SPR topic from different perspectives, ranging from urban to rural, from fiscal to legal. They do not always see eye to eye on the solutions to the problems. However, all seem to agree on the urgency of the problem and suggest government to give priority attention to it. It is also increasingly recognized that the issue is complex, and that unraveling it requires strong political will, as well as cooperation at the legal, institutional and technical levels. Zhou Qiren, a leading scholar at Beijing University, see SPR both a great challenge and opportunity—the problem, if successfully dealt with, would allow China to move another big step toward the land market reform, bring benefits to many stakeholders, and help the country achieve a more balanced and sustainable socioeconomic development (Zhou 2007).

Among the specific policy issues raised in the SPR debate, the ones gripping most attention are on: the land rights and interest of farmers, the policies and procedures of land expropriation, the urban affordable housing shortage feeding to the demand for SPR properties, and the paradox of “land-based financing” causing relentless land-taking by local governments. A close look at each of these issues should help the reader gain a better understanding of what is tangled at the roots of the SPR problem, and what needs to be done to untangle them.

Farmers’ right and interest

Domestic scholars and policy experts have increasingly recognized that the lack of clear and secure rural tenures underlies the emerging SPR problem (Tao and Wang 2010; Li, Rozelle and Brnadt 1998). Under the current law in China, rural land is “collectively” owned. More precisely,

villages and other forms of rural communities are presumably owners of the land, whereas individual farmers have the land use rights under the contractual arrangement.⁷

This system is the result of the history. Going back to the three decade following the 1949 revolution, the country pursued a path of “collectivizing farming” based on the Soviet model. The result was incentive corrosion for farmers and the decline of agricultural productivity. In the early 1980s, to motivate farmers to be more productive, the government took a vital step to replace the “collective farming” system with the “household responsibility system” breaking up the “collectively owned” land and distributing its use rights to individual farm households. This reform led to a surge of agricultural production output in the 1980s, and has been considered by many as a milestone marking the beginning of China’s historical economic transformation (Lin 1992).

However, the household responsibility system designed at the time did not emphatically address the property right issue. The duration of the land contracts was notoriously short at the outset with merely 3–5 years; and has only been slowly extended to 30 years as it is today.⁸ The initial plot distribution, executed by village leaders, was based on the head counts of each household without clearly defining if/when redistribution would be in order as demographic changes took place over time. The contracted plots were not demarcated, and the household rights to the plots not registered. All these left behind a sense of fluidity and insecurity, and potentially a source of disputes.

Most importantly, farmers’ right to the contracted land was limited. Every rural household is entitled to use at least two forms of land⁹: arable land for agricultural production, and residential land for rural housing construction (*zai ji di*). Farmers have the right to farm the former and use the latter for their own living, and even rent or sub-contract both types to other members of the same villages. However, they cannot sell, lease, or rent the land to anyone outside their villages. They are also prohibited by law to use the land as security for obtaining bank loans. These limits, established thirty years ago, remain the same today (Huang, Tao, Xu and Liu 2008).

Such a limited right, which may have worked reasonably in a traditional rural society, has become less sufficient when the wave of urbanization and modern development swept across the country in the decades following the 1980s. As the country shifted its development strategy to industrialization and modern development, investment in infrastructure, industries, and other commercial activities became the national priority. New investments required space, and city boundaries started to expand rapidly into rural areas. According to data, the urban built-up area of the country went up from about 12,856 square kilometers in 1990 to 43,603 square kilometers in 2011, a 350% increase in 20 years.¹⁰ First and second-tier cities grew especially fast. In one decade from 2000 to 2011, they almost doubled their space while the total urban area of the nation increased by 60%.¹¹

⁷ Article 8, The Law of Land Administration of the People's Republic of China, thereby, Land Administration Law.

⁸ The 30-year duration was eventually formally required by the law in 2002, almost 20 years after the system was first introduced.

⁹ In some regions, farmers have the use rights of grassland and forest.

¹⁰ China Statistical Yearbooks. 2012.

¹¹ People’s Daily, “China’s urban construction area increased by 60% in 10 years” (“中国城市面积 10 年扩张 60%”) 12-04-2012,

The urban rise has driven up the land value in and around cities. Figure 1.1 below shows the increased unit price of primarily allocated construction land based on data of Ministry of Land and Resources. It shows that the total amount of state-land allocated to urban construction has increased from 90.4 million square meters in 2001 to 335.1 million square meters in 2010; while the average unit price of the allocated land increased by 6.7 times in the period, from 143 yuan to 958 yuan per square meter.

Figure 1.1 : Total Amount and Unit Price of State-land Allocated, 2001–2011

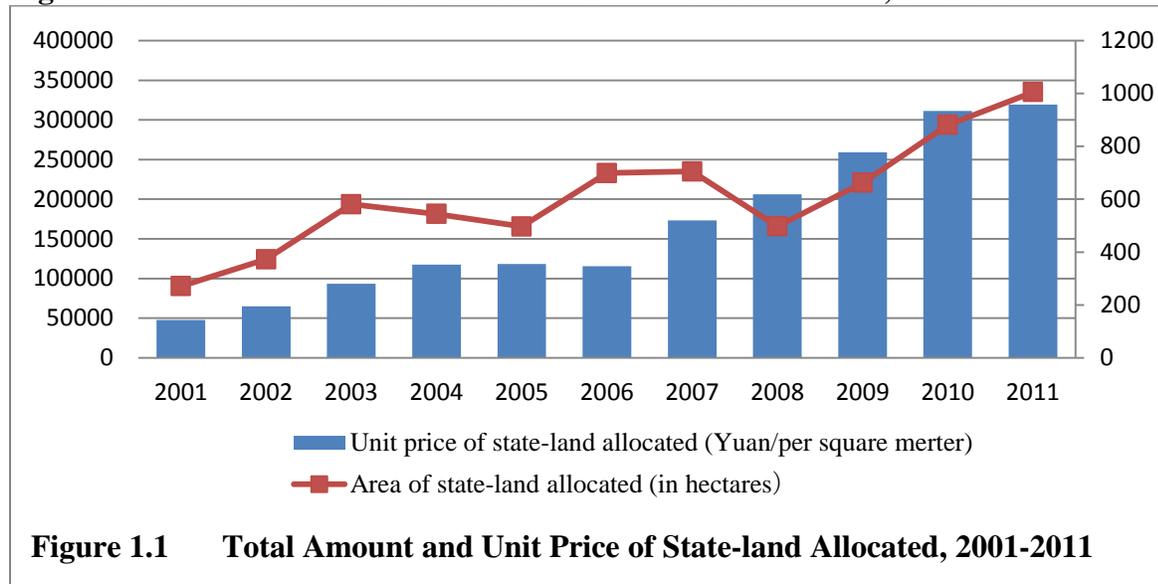


Figure 1.1 Total Amount and Unit Price of State-land Allocated, 2001-2011

Source: China Land and Resources Statistical Yearbook 2012

To farmers, whose main asset is land, land appreciation should not have been bad news, had they been able to benefit from it. However, farmers could not render the gain as their right to directly enter the land market is deprived by the law. Compensation in case of state expropriation is required by law, but the package is hardly sufficient. For the arable land, for instance, the compensated amount is calculated based on the value of “agricultural land” rather than that at the commercial urban land market. Specifically, the formula includes: (1) the loss of land, set at 6 to 10 times the annual crop value; (2) resettlement subsidy, set at 4 to 6 times the average annual crop value; and (3) estimated value for structures and standing crops.¹² Further, the regulations set a ceiling on the level of the total compensation that can be paid in each case, which “cannot exceed 30 times the average annual production value of the land in the three years prior to acquisition.”¹³ In most cases, it is probably no more than 60,000 yuan per mu, or about 90 yuan (\$15) per square meter.¹⁴ This is a mere fraction, i.e., 10 percent, of the price of the land when it is transferred by the state to commercial developers, as seen earlier in Figure 1.1.

Unsurprisingly, this has caused resentment among farmers, as they become increasingly aware of the financial and economic opportunities related to the land asset. Some have turned passively bitter; others become progressively confrontational. In recent years, many have decided to take

¹²Land Administration Law, Amended 2004

¹³ *Ibid.*

¹⁴ Tang Yue, China Daily 10-14-2013

collective actions of “self-help.” (Guo and Cai 2009) To them, developing SPR properties is simply one way to gain the financial benefits they feel they *legitimately* deserve but cannot *legally* render (Zhang 2009).

The role of the state in expropriation

The weakness of farmers’ tenure position is in relation to the extensive power of the state over land use. To start with, the law gives the state an ultimate right to acquire, convert, and redistribute farmland for urban development. The Constitution stipulates that “[T]he state may, in the public interest and in accordance with the provisions of law, expropriate or require land for its use.”¹⁵ The Land Administration Law 1986 (amended in 1988, 1998) reinforces the power by specifying that the state may requisition land owned by rural collectives “according to law” and for “public interests.”¹⁶ The Property Law 2007 recognizes the contracted use rights of collectively owned-land as individual properties to be protected by the law; but, at the same time, it also reserves the power of the state to expropriate the contracted land “for the purposes of public interest.”¹⁷

The problem is that none of these laws clearly define “public interest.” In practice, local governments have interpreted it as broadly as possible, often using urban planning as the basic criteria.¹⁸ This approach troubles many because urban planning in China is a highly fluid and politically influenced process. A national examination of the implementation of land use planning in 1997–2010 finds that city boundaries have been moved outwards constantly across the country, and that the higher the GDP growth and land appreciation of a place, the more frequent the planning adjustments are seen (Wang and Tao 2009). It is rather common that significant changes are made to a city’s master plan whenever a new mayor comes on board. Such a trend means a great uncertainty for farmers, causes a growing anticipation of land expropriation among those living in city fringes and driving them to the SPR option (Sun, Wang and Wang 2011).

The overly broad interpretation of “public interest” is evident in the official data on how the expropriated land is redistributed, as shown in Figure 1.2 below. As seen, overall, only about one quarter of the land is allocated to constructions of public infrastructure and other publically accessible facilities. The rest is transferred to industrial, commercial and residential developers, mostly private-owned.

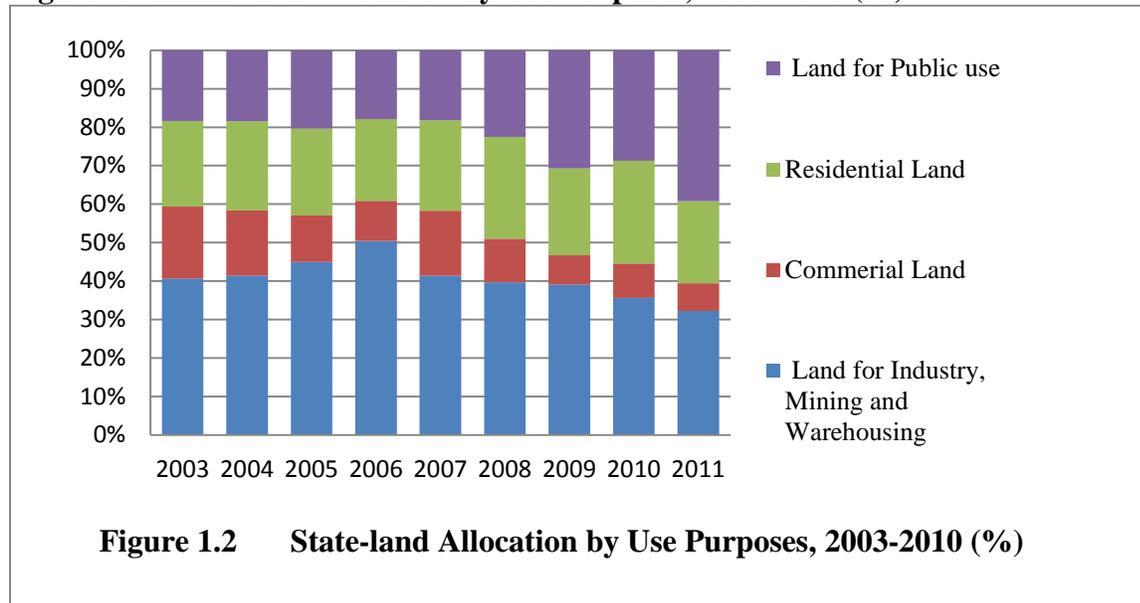
¹⁵ Article 10, Constitution of the People’s Republic of China,” Amendment Fourth, 2004.

¹⁶ Article 2, The Land Administration Law 1986 (amended in 1988, 1998).

¹⁷ Article 42, The Property Law 2007.

¹⁸ The most recently proposed amendment draft of the Land Administration Law, still under internal review actually proposes that “[t]he state can expropriate land on the basis of the need to implement urban construction according to the comprehensive land use planning”

Figure 1.2: State-land Allocation by Use Purposes, 2003–2010 (%)



Source: China Land and Resources Statistical Yearbook 2012

Land-taking in support of infrastructure development is probably necessary in most cases. Indeed, all would agree that China’s phenomenal achievement in developing physical infrastructure, which has been the foundation for its miraculous economic growth, could not have been possible without adequate and timely access to land. In the decade between 2000 and 2011, China’s expressway network grew by more than 16 percent annually to reach a total of 75,000 km, making the country the second largest in the world. During the same period, China also built dozens of new airports and completed several ambitious rail projects including the high-speed tracks across the country.¹⁹ Such scope and speed of infrastructural development could not have been achieved without strong government intervention including mobilizing the needed land resource.

Land-taking for industrial growth—which makes up a significant one third of all land allocated by the state as seen in Figure 1.2—has been somewhat controversial. Supporter would argue that industries in China, particularly greenfield manufacturing operations, have unquestionably benefited from the easy access to well-located and serviced industrial land. This has been possible largely thanks to the development of various kinds of special economic zones (SEZs) led by local governments.²⁰ By 2004, China has built nearly 7,000 SEZs.²¹ The number was reduced to 1,568 by 2006, as a result of a special effort of the central government effort to consolidate the SEZs;²² but in reality the total land coverage of zones seemed hardly shrunk but

¹⁹ By 2012, 40,000 km of speed-tracks was already completed and by the end of 2015, the country will see 120,000 km of rail tracks. See KPMG, “Infrastructure in China: Sustaining Quality Growth,” 2013

²⁰ The term of SEZ is used here to refer to all kinds of zones, included export processing zones, free trade zones, industrial parks, high-tech zones, among others.

²¹ China Knowledge OnLine, 2009; “China Special Report: Industrial Parks—China’s Vehicles for Manufacturing.” (<http://www.chinaknowledge.com>.)

²² *Ibid.*

further expanded.²³ It can be argued that SEZs are at least partially a “public good.” They enable more efficient use of scarce land resource and allow more focused industrial infrastructure development. Coupled with other industrial policy instruments, such as investment targeting, R&D support and cluster fostering, SEZs provide effective platforms for accelerated industrial takeoff, job creation and local economic growth.

Opponents of land-taking for industrial use have questioned, as legitimately, the “public interest” justification of the practice, emphasizing the fact that most of the industrial land is eventually transferred to individual companies and becomes privately owned properties. In addition, critics have arisen regarding the economic efficiency of SEZs development. It has been noticed that local governments racing each other for GDP growth and investment promotion have often rushed to build SEZs without careful thoughts to the actual market demand or land use efficiency (Tao, Lu, Su and Wang 2009). A large number of the industrial zones built turned out to be redundant with space unfilled for many years to come.²⁴ In the meantime, SEZs encroach onto the city fringes where land is already scarce and land use conflicts high. This concern was clearly shared by the central government when it stepped up the effort in 2005 to curb the SEZ proliferation.

What has been under most criticisms is the expropriation for “commercial” and “residential” development, which absorbs another one third of all the land redistributed by the state. Recipients of these two types of land are mostly private developers. Unlike the infrastructural land which is, by law, allocated through *hua-bo* (划拨) free of charge, or even the industrial land which is, in practice, frequently given to investors at discounted prices, commercial and residential land is almost always allocated competitively through public tendering and auctions. Recipients, thus, pay full, and growing, market prices for the land as seen earlier. The proceeds have become a major source of revenue for local governments. The complex causations of this practice, from the local governments’ point of view, will be further discussed under the section on “land-based financing.” Here, it is suffice to question the real motives of local governments when expropriating land for commercial and residential purposes.²⁵ When a government simply takes land from some citizens at low costs and sells it to others at high prices, it is indeed dubious to argue that such actions are in “public interest.”

There are serious concerns about the procedures involved in expropriation. There are no legally binding procedures of consultation and negotiation with villagers. Local governments make decisions on the development needs and prepare strategic land use plans. The planning decisions translate automatically to land expropriation needs. Public hearings among the farmers whose land is to be affected are usually held after decisions are made. Farmers whose land is to be affected are rather notified than consulted. Compensation packages are determined by the government based on the value of agricultural use of land and, as discussed earlier, is only a

²³ In 2007, a nationwide check, called “100-day Action” (“百日行动”清查), found that the land coverage of newly created zones did not reduce but increased by another 60,000 hectares. See Tao, Lu, Su and Wang, 2009,

²⁴ China’s ratio of manufacturing land over total urban construction land is found five times higher than that seen in most other countries, 50% verse 10% -- an indication of serious lack of balance in urban structure and living environment planning. Xue Zhiwei (薛志伟) 2006.

²⁵ Even taking into account the necessary land consolidation and infrastructural preparation, which can be expensive, local governments can still pocket a significant portion of the appreciated land value to support their budgets. More on this will be discussed in the next session of discussion.

fraction of the commercial value of the land. Expropriation can commence based on the timetable, again, set by the government. Disputes with farmers over the compensation for land loss and resettlement, which inevitably arise, do not need to stop the implementation of the expropriation according to the regulation.²⁶

In recent years, the government has tried to improve the process by spelling out more specific steps of involving farmers through the Implementation Regulations. These, for instance, include requiring local authorities to post the development blue prints in the affected villages, informing farmers of the compensation decisions earlier on, and giving the latter a chance to voice their views and demands before the final decisions. However, there are no adequate thoughts to how to effectively carry out these steps given the present rural conditions; nor specific supervision mechanisms to guarantee their implementation. Instead, the regulation stipulates that, in case of disputes, it is up to “the higher level governments” to mediate; and that, if such mediations fail, it is “the government” to make the final decision on the expropriation.²⁷ The Mediation and Arbitration Law for rural land disputes, adopted in 2009, explicitly exclude disputes related to expropriation from the legal process, but designates them to administrative solutions.²⁸

It is no surprise that disputes over land acquisition have increased significantly across the country. Sometimes, villagers fight for higher compensations; other times they simply refuse to relocate. Local governments in some places compromise by offering farmers better compensation packages, including things like social security, medical care and free education for children.²⁹ In others, they choose to simply leave behind the “tough” villages while moving on the big schemes, hence the appearance of many “villages in cities” as mentioned earlier. In still others, where governments choose to enforce their power, militant stand-offs with farmers occur. Official reports acknowledge that land acquisitions and forced demolition led to more than 22 percent of the “mass incidents” seen in China in 2012. In 2009, a report by China New Service claimed that, in 2003–2006, 40% of the cases received by the State Bureau for Letters and Calls, also known as the National Petition Office, were related to land disputes against governments (Tang 2013). Many farmers who cannot win the battles against local authorities find their way to the provincial capitals, and even Beijing, to petition to the higher levels. This often causes social stress and disorder unpleasant for all while inflicting the most painful experience for the farmers involved.

Against this backdrop, it becomes understandable why the SPR development has become popular among farmers. The imminent land loss, anticipated poor compensation, and the awareness of land value appreciation reinforce one another to drive farmers to take up land development into their own hands. Moreover, farmers have quickly learned that, once they do it collectively, there is probably little the government can do to stop them. Demolition seems unlikely give the scale and potential expenses involved. Arresting the people involved is even less conceivable. The fact that government can hold back the legal registrations and legal

²⁶ Article 25, Land Administrative Law .

²⁷ Article 8, Regulations for the Implementation of the Land Administration Law of the People's Republic of China (1991, 1999)

²⁸ Article 2, Law of the People's Republic of China on the Mediation and Arbitration of Rural Land Contract Disputes, 2007.

²⁹ As some observers point out, social security and medical care are solutions to postpone the government payments and the burden will be laid on future governments. Tao and Wang, 2010.

protection of SPR properties does not have much impact either. From farmers' point of view, they cannot lose the right which they have never had.

Local officials are becoming aware of the reversed game, and many expressed their anxieties about the situation. "We used to be the ones to take actions and the farmers only reacted," some say, "But now it is the farmers who take the actions and we are forced to react."³⁰ Reacting is clearly more difficult. In Shenzhen, where the SPR phenomenon has spread now to cover 30% of the city's constructed area and perhaps half of its completed building space, out-rooting it is bound to be hard. One study describes the situation a "dilemma" in which those who sit on the land cannot legitimately develop it, those who need land for legitimate development cannot access it, and those who are supposed to be in charge, i.e., the government, have lost control of land management and tax income.³¹ This situation benefits no one but hurts all.

Demand from the urban house market

Some studies have suggested that the emerging SPR phenomenon reflects not only the needs of farmers, but also the urban poor. If the weak tenure rights of farmers, exacerbated by relentless expropriation, have worked to push for SPR on the supply side, it is the growing shortage of affordable housing in urban real estate markets that has been a strong pull of SPR from the demand side (Tao and Wang, 2010).

The urban low-income population has swelled in the last few decades, mainly by migrant workers. Between 1982 and 2012, nearly 253 million people moved out of China's countryside into its cities, a rural-urban migration that is the largest ever seen in human history (Chan 2011). By 2012, China's urban population for the first time surpassed that living in the rural, and the trend is still going. This enormous influx of people has been an indispensable factor contributing to China's urbanization and industrialization, but it also brings inevitable pressure on many aspects of urban development, especially housing. Migrant workers work at the lowest-paid jobs, and even when doing the same job, they can earn significantly less than their city peers.³² Moreover, they are treated as a "floating population," despite the fact that many of them may have settled in cities for years. As such, they are without city *hukou*, a local household registration which entitles the registered a range of public services including basic housing assistance.

In the meantime, urban housing prices have skyrocketed all over China and government subsidized housing dramatically reduced. Figure 1.3 shows the average housing prices in the top twenty cities in 2010. As seen, large cities tend to have the highest land and property prices. To most migrant workers, as well as other groups with relatively low income³³, purchasing a small apartment unit of 60 square meters could easily cost their total lifetime income. SPR properties, which can be purchased or rented at prices much lower than those at the formal market, offer

³⁰ Authors' interviews.

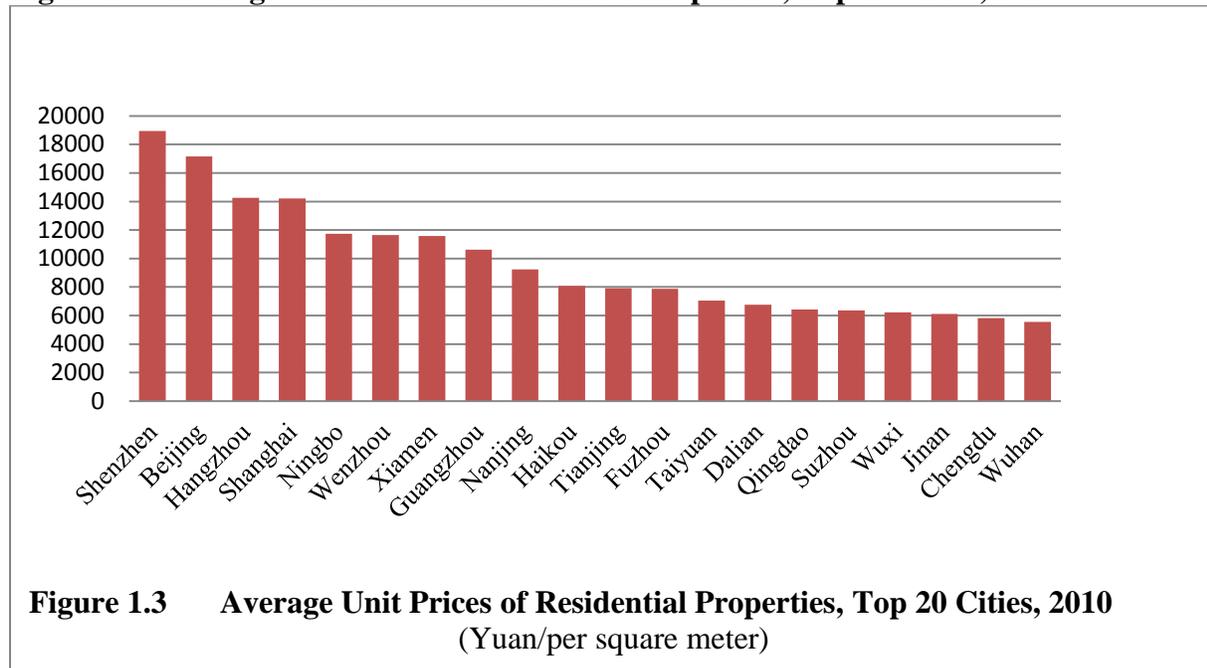
³¹ Peking University School of National Development, 2013, "A Research Report on Shenzhen's Land System Reform" (Working document, unpublished)

³² Study based on observations of a nationally represented sample in 2002 finds that migrant workers can be paid by about one quarter less than their urban resident peers for the same jobs they do. See Démurger, Gurgand, Li, and Yue 2009.

³³ These typically include the old and disabled without ability to work, or the unemployed due to closures of large SOEs.

them an attractive alternative. In some places, such as Beijing and Shenzhen, SPR housing might not just be their only choice to gain the sheltering for themselves but also a chance to finally bring their families from the home villages to the cities. To them, the fact that SPR properties cannot be registered, and thus carry a high risk for possible reselling in future, may not seem so imperative as their present concerns, i.e., basic living, family reunion after protracted separation and, not the least importantly, the gained access to better education for their children.

Figure 1.3: Average Unit Prices of Residential Properties, Top 20 Cities, 2010



Source: China Real Estate Statistics Yearbook 2011

The magnitude of the SPR importance to the urban poor is evident in the findings of a 2005 survey which found that, nationwide, “villages in cities” (another way to call SPR) provided living space to 29.5% of the urban population. The majority of the “villages” residents belonged to the lowest income groups. Migrant workers alone made up 25% of all residing in such “villages,” and their proportions were particularly high in large metropolitans, such as Shanghai (66.7), Beijing (56.4%) and Chongqing (50%). (NDRC 2009)

Real estate developers tend to blame the skyrocketed housing prices on the state monopoly in the primary land supply. During the interviews conducted under this study, some developers pointed out that, without competition in supply, the government could unilaterally decide when, where and how much land is to be put in the market. It was noted that, nationwide, the unit price paid for the state allocated land doubled from 2001 to 2006, from 2,149 yuan to 5,197 yuan per square meter; and nearly tripled in the next five years to reach 14,019 yuan by 2010.³⁴ Rapidly growing land price caused the construction costs and, inevitably the property prices, to rise. Some academic studies seem to agree. According to one study, up to 45% of the value of the properties

³⁴ China Land and Resources Yearbook 2012.

sold at formal market is attributable to the land cost paid to local governments.³⁵ In addition, another 7–10% is due to the multiple taxes and fees also to be paid to the government authorities with various responsibilities regulating constructions.³⁶

Many in the government may disagree. Interviewed officials had argued that the government had a legitimate role to play in restricting farmland conversions, in order to avoid land resource depletion, food security deterioration, and the emergence of “landless farmers.” Some further believed that the government manipulation of primary land supply, if well executed, could help maintain the stability of the land market. Nevertheless, many also acknowledged that the current system had not worked as well as it was expected, and that government decisions depending on administrative measures had led to wasteful conversions and market price distortions. To many, the solution is not to ask the government to completely step out its “gate-keeping” role at the source of land supply, but to be more responsive to market signals and improve the implementation aspects. For the housing segments that are neglected by the market but socially and economically important, such as low-income housing, some suggest using special policy assistance to either consumers (“housing subsidies”) or developers (“bricks subsidies”). (NDR 2009)

While this debate over market-led versus government-led approach will continue at the policy level, Chinese developers have noticeably poured investment into the high-end housing market, while the low-income housing segment has been largely neglected. Between 1998 and 2007, the former made up more than 90% of the nation’s total investment in real estate, whereas the latter received less than 10% of the total investment. (Zheng, Man and Ren 2010) In fact, public investment in low-income housing also shrunk substantially since 1998 (NDR 2009). The tendency is understandable as land cost transfers to property buyers are much easier in the high-end housing market, making it a more lucrative business. A full cost transfer becomes more difficult in the low-income housing segment where the purchasers are severely limited in their purchasing power. Developers would have to be willing to absorb part of the cost which means taking reduced profits. The end result is a suppressed low-income housing supply over the years.

The same explains why some developers welcome the opportunities in SPR involvement. SPR construction makes business sense as it involves significantly lowered cost. First, land directly obtained from villages is much cheaper than the land purchased from the state. Secondly, because SPR development and trade are operating outside the regular system, they escape the payments related to various approvals, registrations, taxes and fees. No one knows exactly how much cheaper it is to build properties in the informal market than in the formal market, but some estimate that the difference could be as low as less than 50% (Wang and Wang 2009). The fact that developers are willing to take the risks to build SPR properties and sell them at a price half of the formally traded properties is perhaps a good indication that the estimate is close to the reality.

³⁵ Tao and Wang 2010, footnote 2, p.108

³⁶ There are multiple fees and charges related to registering the property rights, obtaining construction permits, getting the environment licenses, connecting utilities, and many other administrative and regulatory steps before the properties can be put at the market. See Guo, T. 2007.

There are serious concerns about the quality issues regarding SPR properties. Critics worry that SPR development creates sub-standard and even unsafe living conditions, as it circumvents zoning and building and zoning regulations. The SPR property management, often by organized villagers, is also subject to questions. However, a household survey comparing resident satisfactions with formal and SPR properties in suburban Beijing finds only moderate differences between the two groups. In general, residents of SPR properties are less favorable regarding the infrastructural and social support such as “utility connections,” “sanitation” (e.g., garbage collection), and “police service;” but are equally favorable regarding “construction quality,” “schools and kindergartens,” “community life,” and “property management.” There seems a trend that, as the commercial demand for SPR properties increases, the design, development and management of SPR properties become more sophisticated and generally improve. However, being outside the regular systems, SPR properties are likely to continue to be penalized by the lack of public services. (Sun and Wang 2010)

Such studies suggest important policy implications. Clearly, the resilience of the SPR property demand cannot be ignored. Farmers and developers will continue to risk into the area as long as the demand is high. Considering that China expects to see another acceleration of urbanization in the upcoming decade, and that another 200 million people are likely to move from rural to urban areas as a result, the pressure on housing, especially on affordable housing, will further intensify. In the meantime, as discussed earlier, land resource is getting increasingly scarce and an efficient use of every piece is important. It will be in everybody’s interest if China can find a way to integrate all property development activities in one market following a coherent planning system.

There prospect is not all bad. It is estimated that there is a total of 160,000–170,000 square kilometers of land in the country that is currently classified as “rural land” but has little value to farming. This is more than three times the available construction land existing in all cities. (Wang, Lan and Yao 2012) At the present, there is no effective planning system to govern this valuable land resource. Many current conflicts take place on the use of this land. Instead of focusing on keeping farmers away from the market through ownership control, the government could use planning tools, building regulations and tax instruments to guide, monitor and police the overall construction sector as a whole. What is also urgently needed is a more collaborative land use planning approach that will engage all stakeholders in the planning process, respect everyone’s (including farmers’) rights, and taking into account the long-term social and environmental impact in both rural and urban development. This approach, called market integration and increasingly advocated in China, will help all to benefit from a more efficient, equitable and sustainable development.

The paradox of “land-based financing”

No discussion on SPR’s roots is completed without a special note of “land-based financing.” (Man, He and Liu 2011) The term of “land-based financing” in general literature has a rather broad meaning, including for instance: land property taxation, charges levied on using publically improved infrastructure, the use of land as security for bank borrowing, and funds raised by selling land. According to World Bank, if properly designed and implemented, “land-based financing” can provide effective instruments for governments, especially local governments, to

raise the capital to support their infrastructural investment projects and other development goals (Peterson 2008).

In China, the common use of the term carries a narrower connotation. It mostly refers to the land trade maneuvering by local governments to, simply put, buy and sell land to rake in income. As mentioned earlier, local governments are legally empowered, and indeed administratively incentivized, to do so, because they can acquire land from farmer at very low costs, rezone it to commercial and residential uses, and distribute the re-zoned land to urban developers who are willing to pay very high prices. The profits generated are mostly kept by local governments as “extra-budgetary revenues.”

From the local governments’ point of view, this source of revenue is legitimately needed. The current fiscal structure in China, resultant from the tax re-centralization since 1994, basically assigns most tax revenues—i.e., 75% of the value-added tax and 68% of the corporate income tax—to the central government, leaving local governments a lesser proportion of all taxes collected.³⁷ As seen in Figure 1.4, the revenue-expenditure splitting has been continuously moving in favor of the central government for the last twenty years. In 2011, local governments shared about 50% of the national revenue, but carried the burden of nearly 85% of the national expenditure.

Figure 1.4: Local Government Revenues/Expenditures as the Percentage of National Revenues/Expenditures, 1978–2010

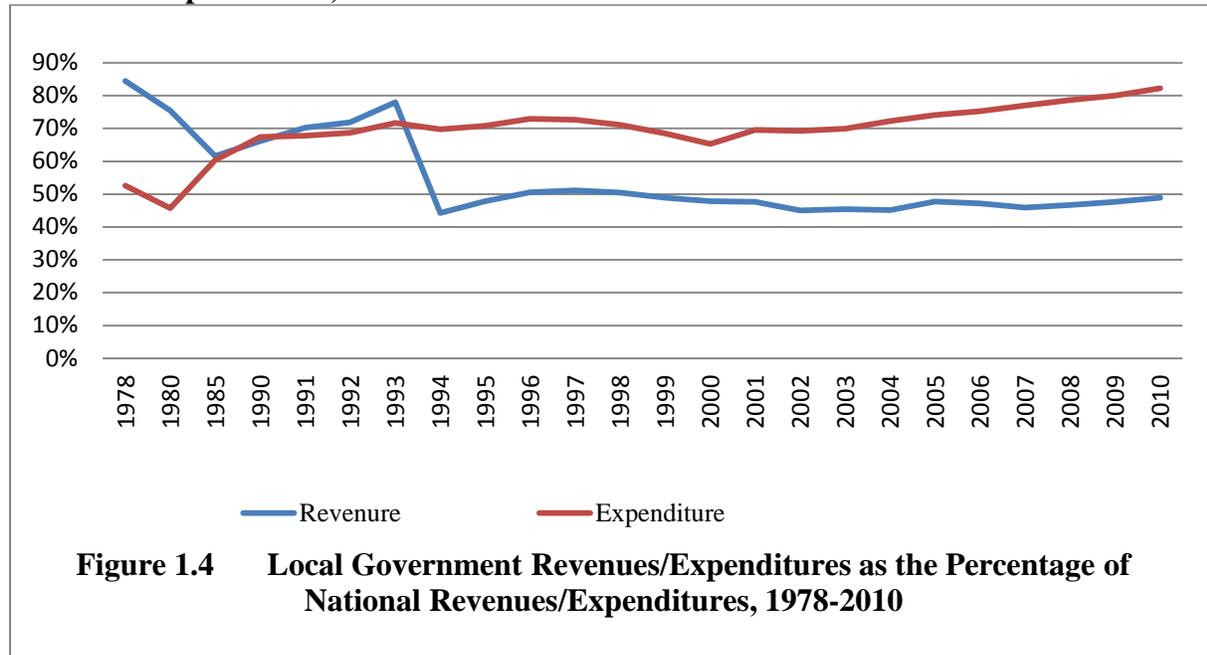


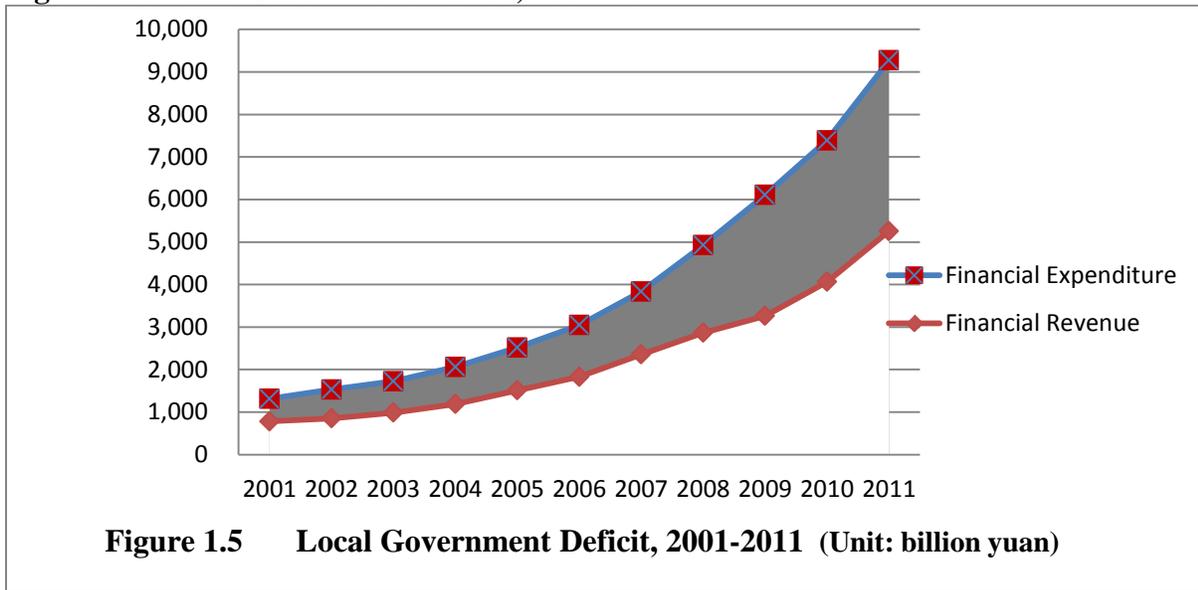
Figure 1.4 Local Government Revenues/Expenditures as the Percentage of National Revenues/Expenditures, 1978-2010

Source: China Statistical Yearbook 2011

³⁷ VAT and CIT are the two most important tax collections in China. Local governments get 25% of VAT and 32% of CIT, plus Individual Income Tax and Local Business Tax, both being less insignificant in China’s tax structure.

This fiscal structure has led to a perpetual deterioration of the budgetary status of local authorities. As seen in Figure 1.5, nationwide, local revenue grew much more slowly than local expenditure, year after year, leaving behind a chronicle and ever enlarging deficit for local governments.

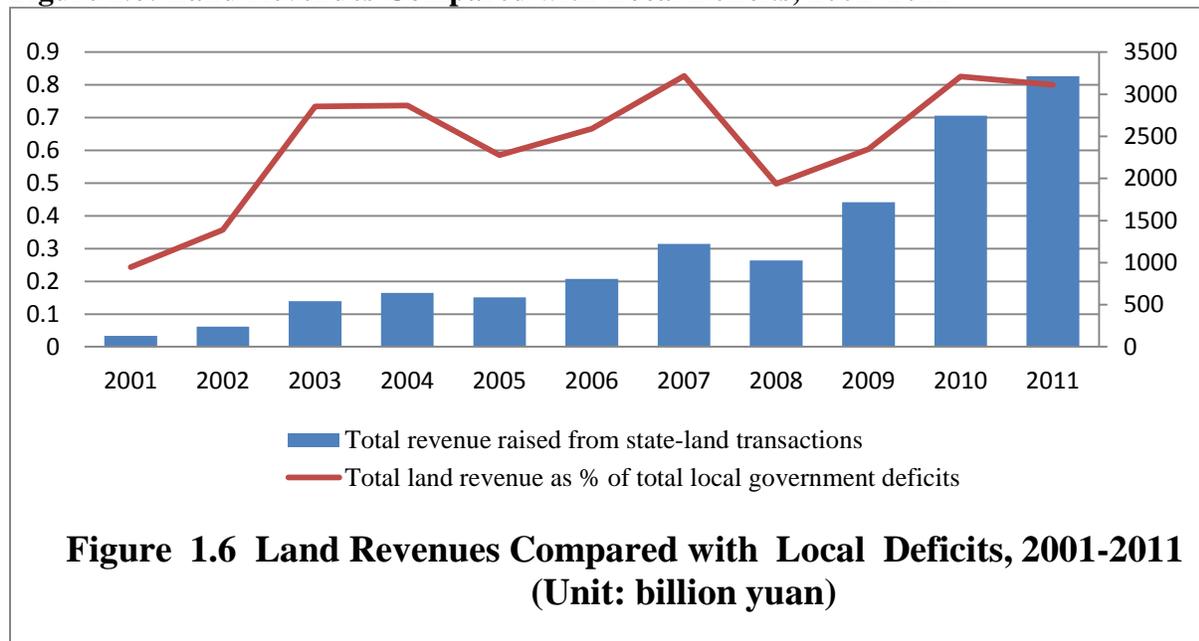
Figure 1.5: Local Government Deficit, 2001–2011



Source: China Statistical Yearbook 2011

This gap must be filled one way or the other. Whereas cutting expenditure is important, additional ways of raising revenue is as critical. Land-based financing comes handy. Figure 1.6 shows just how important this source of income has become for local governments. Whereas in 2001 land selling proceeds were about 24% of the revenue-expenditure gap, by 2010 the percentage was as high as 83%. In a sense, land-based financing has become one of the most important instruments local governments now depend on to make their fiscal ends meet. It explains why relentless land-taking is hard to stop despite the repeated efforts of the central government to curb it. It also explains why local governments are reluctant to increase the compensation for farmers.

Figure 1.6: Land Revenues Compared with Local Deficits, 2001–2011



Source: China Land and Resources Statistical Yearbook 2012; China Statistical Yearbook 2011

Local governments also borrow excessively from banks using primarily public land assets as securities. Reportedly, Chinese local authorities' debts owed to banks had accumulated a 9.7 trillion yuan (US \$1.6 trillion) by June, 2013.³⁸ Other ways for local governments to raise money are through multiple local taxes and fees, many of which are also related to land, such as property registry fees, charges for building permits, road and utility connections, and fees related to other land development procedures.

In this context, the runaway trend of SPR development must cause an acute fiscal concern of local governments. The more areas around cities are built up by farmers themselves, the less land is left for governments to reclaim, convert and transfer; or to be used as mortgage for public borrowing. Meanwhile, the more urban developers turn to villages for cheaper land alternatives, the less their demand for bidding on the state land thereby suppressing the latter's prices. In addition, extra income from the various land development related charges and fees is lost, when constructions and property trading continue to circumvent the regular procedures.

The fiscal challenge China is facing is complex, and an overall discussion on the subject is beyond the purpose of this study.³⁹ However, it is important to note that addressing the problem of local government deficits has to be part of the search for SPR solutions, whereas resolving the SPR problem would help improve the local governments' revenue position. Currently, budgetary distress contributes to the local governments' dependence on "land-based financing" which

³⁸ Alarmed by such a magnitude of local debt, the Central Government is trying to put a brake on local government borrowing, although it is not yet clear how this could resonate with the current budgetary dilemma and the continued urbanization need all local governments face. See Reuters, Beijing, Sept 25, 2013.

³⁹ Many studies have been conducted in this area. See, for instance: 贾康, 2009"对当前经济形势的研判、前瞻与建议"《中国金融》2009年第12期。韦志超、易刚 2006"物业税改革地方公共财政,"《经济研究》2006年第3期。

aggravates relentless land-taking. Relentless land-taking, in turn, exacerbates farmers' resentment and drives them to the SPR option. A rampant spread of SPR development, in its turn, adds a new threat to the local government budgetary position. It has become a vicious circle.

To turn this vicious circle into a positive one, combined fiscal and land policy reforms are in order. For the past one decade, many Chinese land and tax experts have adamantly advocated the introduction of a land and property tax as a step to improve both fiscal and land policies (Man, He and Liu 2011). It has been argued that such a tax would bring local government a source of revenue income into the future while land sale proceeds are basically one-time gains (An and Wang 2004). Property tax is also likely to broaden the tax base. Moreover, increased revenue through land and property tax helps reduce the pressure on local governments to depend on land-taking, thus easing their relationship with farmers and encouraging more resource-friendly development. These and other arguments in favor of land property tax seem to have finally gained a momentum among the policy makers. In 2012, the central government started two pilots in Shanghai and Chongqing, to test out its political feasibility, technicality and effectiveness. Once successful, the model can be replicated to other cities and benefit the whole country.

Summary

Clearly, SPR has come to represent a complex set of land policy challenges that China must continue to meet in order to complete its journey of economic transformation it has embarked on three decades ago. Reforms are needed on multiple fronts, including securing rural tenure rights for farmers, reforming expropriation and compensation policies, addressing urban low-income housing, and local government fiscal balancing. These reforms cannot be achieved unless there is a strong political will and well-orchestrated central-local government cooperation. As many of the challenges are new, solutions will require risk-taking and innovation. Not to reform, however, will risk China's future development prospects.

The reform needs are gaining the attention of the top leadership. In early 2012, then Premier Wen Jiabao announced that the rights to land of farmers needed to be fully defined and protected, through the revisions of the law if necessary (Tang 2013). Since then, there has been a series of preparations for reforms underway. In August 2012, the State Council organized an expert meeting with participants from both government and academic organizations to specifically discuss the need of rural land reforms. Participants recognized that administrative measures had not been effective in stopping relentless land-taking, and that reforms were needed to clarify the "collective ownership" of land. Many argued that only through securing farmers' tenures and allowing them to be part of the formal development process, could farmers be encouraged to come out the SPR shadow. Bring farmers into the formal market would also require them to comply with the established laws and regulations regarding land use, environment protection, and other safeguards for vital public interest. (Wang, Lan and Yao 2012)

A number of experts at the meeting expressed skeptics. Some point out that commercializing "collective land" would require the revision of the Constitution and the national Land Administration Law, a task that will inevitably be politically charged. Others noted the essential need for complimentary reforms of the fiscal system, with a view to reducing the local

governments' reliance on land-based finance. Still others call the attention to the need for an integrated system for rural and urban land use planning, environment and resource conservation, land information, and other conditions necessary for orderly market transactions of rural lands. It is alerted that all these will take time and resource to complete. (Wang, Lan and Yao 2012)

As China entered 2013 under the new leadership, the country was poised to accelerate the rural land reform. The Third Plenum of the Party Committee held in Beijing in October sent out strong signals that the rural land reform was to be moved to the front burner.⁴⁰ A follow-up working meeting, reportedly chaired by the new Party Chairman Xi Jinping himself, brainstormed on the strategy and implementation action plan dealing with the problems that “have not received enough attention.” Among such issues the most urgent ones were farmers' rights to land and rural-urban market integration. It was iterated that that a continued urban-led development must not sacrifice farmers' wellbeing.⁴¹

At the moment, an action plan with a clear top-level direction, the “roof-top design” (“顶棚设计”), for reforms in the upcoming years is yet to be unveiled. Implementation technicalities are being actively discussed. There is no lack of political pushbacks at various levels. Nevertheless, the leadership seemed determined, and a much broader public support is in place for more fundamental reforms, sooner than later, that will help the country move towards a more equitable, efficient and sustainable development.

China's Past and Present Reform Experiences—What can be learned?

Many of the concerns expressed at the 2012 expert meeting are legitimate, but it is not the first time that China has faced difficult situations in land policy reforms. On the contrary, China encountered fundamental reform challenges at every critical turning point of the massive economic transition it has embarked on since 1979. Each breakthrough involved complex and politically risky decisions; yet, time and again, visions and pragmatism overruled ideology; innovation and experimentation paved the way for solutions. Against this broad picture, the present problems China faces, daunting as they are, are not unsurmountable.

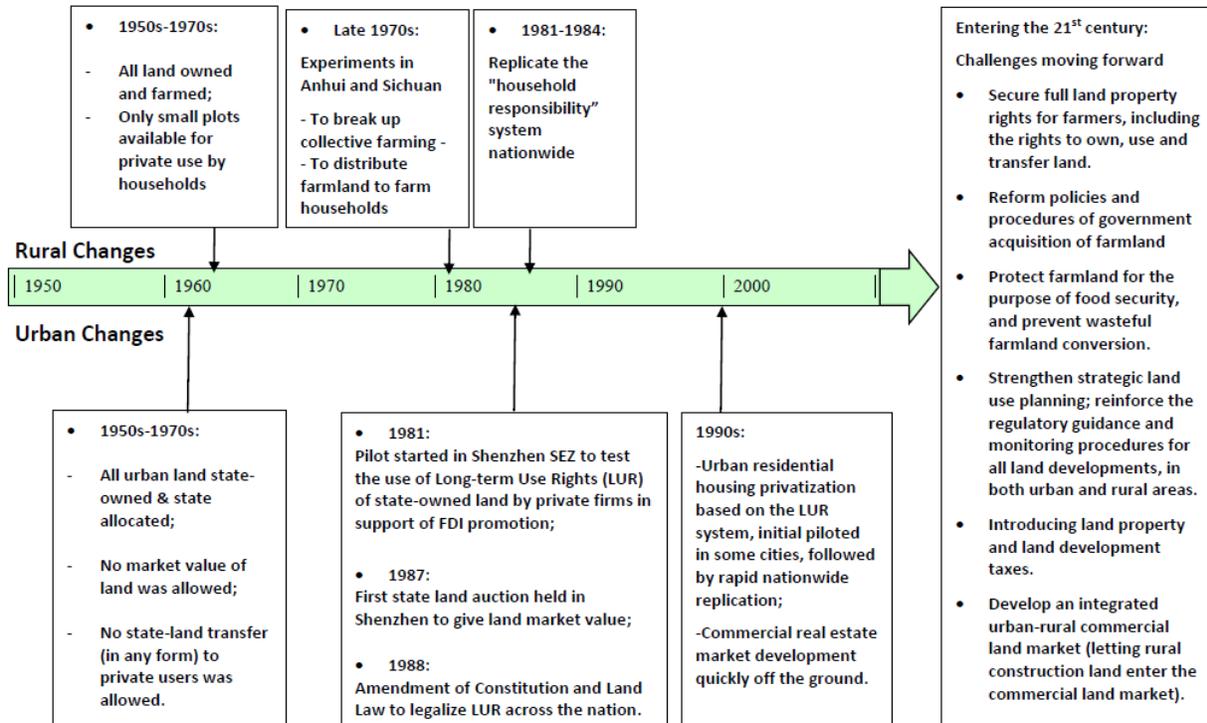
The Earlier Reforms — Crossing the River by Feeling the Stones

In a nutshell, Diagram 2.1 highlights the most important land reform milestones China has achieved in the last 30 some years. As seen, land reforms in the country have followed two parallel tracks separating the rural and urban. The emphasis of changes shifted between the two over time, but the overall direction has been consistent, as the country continued to transform itself from a command economy to a market-oriented one.

⁴⁰ *China Daily USA*, “Wand Policy a Long-term Affair,” December 10, 2013.

⁴¹ *China Daily USA*, “Experts Assess ‘Milestone’ Reform Blueprints,” November 20, 2013.

Diagram 1: China's Land Market Reform Milestones
Along the dual-track separating rural and urban



The rural reform at the outset of the journey, already mentioned earlier in this paper, is a well-known case both in and outside China (Lin 1992, Naughton 2007, Unger 2002, Oi 1999). By decisively abandoning the “collective farming” that had impaired the countryside for decades, and replacing it with the household incentive based contract system, this step singlehandedly led to an immediate surge in agricultural productivity and helped hundreds of millions of farmers out of poverty (Li, Rozelle and Brandt, 1998). The success has since been generally considered as the cornerstone marking the beginning of China’s overall economic transformation.

Progresses in the urban area were as astonishing, although somewhat less discussed in literature. Whereas at the outset all urban land and properties were tightly controlled by the state, today a hybrid urban land and property market functions on the basis of individual property rights in the form of Long-term Use Right (LUR) of state-owned land. Industries and commercial development have thrived with the support of access to land, and rules of market competition have gradually replaced administrative measures of state land allocation. The reform impact on urban living has been indisputable. Over 80% of hundreds of million urban citizens now own their residential properties; and the average resident floor space for each citizen more than quadrupled from 6.7 square meters in 1978 to 28.8 square meters in 2009 (Man 2011). These achievements are remarkably by any world standards (Bertaud 2012).

Not only what China has achieved but also how it has succeeded deserves attention. Unlike many other transition economies which followed the “big bang” approach to comprehensive and

sometimes painful land privatization, China adopted a cautious, step-by-step approach to deal with politically sensitive land policy changes. Based on such an approach, the government targeted one specific set of problems at a time, based on the nation's economic priorities. Further, most far-reaching changes started with small-scaled "experiments," initially limited in few locations and replicated in more parts of the country only after they proved working. Often the changes in the law came as the final step to establish the new model across the country. As such, practices ostensibly "unlawful" at times may turn out to be blazing the trail to the future. Characterized by a popular Chinese saying, this approach is to "cross the river by feeling the stones."

How did China embark on the "household responsibility" system?

It is no exaggeration to say that the "household responsibility system" could not have been introduced if not for the pragmatic and risk-taking spirit. The time was late-1970s, when the country was still recovering from the ideologically radical era of the "Cultural Revolution." Collective farming was upheld by the constitution. Yet, impoverished farmers in a few Anhui and Sichuan villages started, secretly but determinedly, to dismantle collective farming and break up the land among themselves. Knowing that this action was against the law, eighteen farmers of one front-running village stamped their thumb prints on an agreement to solemnly pledge to each other that, if any of them ended up in jail, the rest would be responsible for taking care of their families (Chen and Chun 2009). None of the farmers needed to go to jail, thanks to the support of the reform-minded faction at the top leadership. Instead, the practice was to spread from a few villages to a few counties, and eventually became the model for the whole country (Zhou 2009). Once a clear political decision was made, in 1981, the de-collectivization for the vast rural China took less than three years to complete (Branmull 2004).

How did China manage to allow state-land to be transferred to private users?

The breakthrough of the prohibition of state land transfer was another example.⁴² The time was early-to-middle 1980s, when the country newly embarked on economic opening, anxious to attract foreign direct investment (FDI) for the capital, technology and access to world markets. There was a great opportunity presented at the time, as investors from Hong Kong, Taiwan and other Asian economies were seeking relocation alternatives under the pressure of rising production cost at home. However, the government quickly realized that no foreign investment could be attracted unless industrial land was made available. To make such land available, the government must overcome the constitutional and ideological hurdle so that state-owned land could be transferred to foreign investors.

Acting against all political odds, the government decided to adopt the long-term use right (LUR) system, modelled after Hong Kong. To lessen the ideological resistance and accelerate the pace, the government first tested the model in Shenzhen, a designated Special Economic Zone (SEZ) bordering Hong Kong. Before long, many other coastal areas were copying the practice in Shenzhen. In April 1988, when the government took a legislative step to amend the Constitution and land related laws, thereby establishing the legality of LUR. A revision of Article 2 of the national Land Administration Law in December the same year and the State Council No. 55

⁴² The following few paragraphs are drawn from Shen, Xiaofang and Songming Xu, 2012.

Order, in May 1990, further specified the duration of the LUR based on the type of uses—40, 50, and 70 years for commercial, industrial, and residential development, respectively. It also provided that LURs would be transferred to third parties and be pledged for bank loans. By the time of these laws were amended, most coastal provinces were already applying LUR to attract foreign investors and emerging domestic private firms.

The removal of the legal bottleneck to the transferability of the state-owned land was critical to enabling China to attract phenomenal FDI inflows and fostering its domestic private business growth in the decades to come. But the reform did not stop there. Building upon the LUR legal frame created for businesses in the 1980s, China began one of the most sweeping urban housing privatization the world has seen in the 1990s. Again, following the approach of learning by doing, the reform was first piloted in four selected cities (World Bank 2006). The experiences and lessons drawn from the initial pilots helped China to see through the implementation of the programs in all cities in less than five years, another record that stands out in the world scene.

How did China start the use of market mechanisms to allocate state-land?

Public land auction, common in China today, was another step difficult at the beginning, and would not have been possible without the pragmatic and risk-taking spirit.⁴³ At the time when the very first public land auction trial was carried out in Shenzhen SEZ, in 1987, few recognized that land had a market value and could be capitalized. All initial state-land transfers to private investors had been done through administrative approvals, and “approved” land was given away largely free (Wong and Chu. 1985). The very idea to auction state-land to foreign investors for a market value triggered an immediate uproar among the conservatives who equated it to “ceding sovereignty to foreigners.” (Liu and Zhu 2005) However, with a nod from the top leader Deng Xiaoping, the first public land auction of China took place in Shenzhen on December 1 1987, a historical date in Chinese land market reforms. Although it would take China another 14 years of many more intense debates and experiments before public auction became the legal requirement for all state land allocated to private developers⁴⁴, the principle was established that date for the first time, that “*shichang*” (the market) rather than “*shizhang*” (the mayor) was a more effective allocator of valuable land resources (Yan 2001).

Current Experimentations: Swimming in the “Deepwater Zone”

If it is the political vision at the top combined with pragmatic efforts at the bottom that helped China overcome formidable reform hurdles in the past, the same is urgently needed today. China has come a long way in crossing the river by feeling the stones, but it is now entering a “deep-water zone” and must show more courage and efforts to learn to swim, said experts at a meeting held in Beijing in October 2013.⁴⁵

⁴³ As of the end of 1986, land transfer fees collected by Shenzhen SEZ authority was a mere 6% of its infrastructure investment, barely enough to cover the interest payment on the money it borrowed from banks. See Liu Xiaoyun and Lei Zhu 2005.

⁴⁴ Not until 2002, did Ministry of State Land and Resources Administrative Order no. 11 require all transfers of state land to commercial users to be conducted through tendering, auction and public listing, the so-called “zhao pai gua” (招拍挂) principle.

⁴⁵ *China Daily USA*, “Experts Assess ‘Milestone’ Reform Blueprints,” November 20, 2013.

As discussed earlier, the dual-tracked land market reform strategy, lopsided in favor of industrialization and urbanization for the last three or so decades, has left the rural reform in limbo, with the “household contract” system little-changed since its inception. In the meantime, urban development has inevitably impacted on rural areas, especially those near urban centers. Farmers become increasingly aware of the new economic opportunities around and dissatisfied with the current legal system which limits their ability to capture the opportunities. Especially, they become very aware of the appreciated value of the land assets, and resent the fact that they could not benefit from it due to the existing law. As discussed in the earlier chapter, many of them have been attracted to the SPR option as a way to fight for their share of the financial benefits.

Within the government, as also mentioned earlier, many feel the urgent need to come to terms with farmers. For local governments, the highest priority remains continued GDP growth, to be supported by the urbanization led strategy. However, without genuine cooperation from farmers, this strategy becomes increasingly difficult. City spaces are rapidly saturated everywhere, while much of the valuable construction land, presently classified as “rural,” is underutilized. To incorporate this land into urban planning, assisted by certain consolidation and readjustment, makes sense, but the old way of compulsory land-taking risks conflicts and social unrest that local governments do not want. In this context, a wide range of locally initiated experimentations are taking place to explore new ways to channel “collectively owned construction land” into the formal land market, compromising rather than antagonizing farmers. This trend seems to be consented by the central government, as long as the “cultivated farmland” is strictly protected.

Consequently, new experimentations are flourishing on the ground, often using the familiar justification of “crossing the river by feeling the stones.” However, there seem a lot more methods, and sometimes slightly different directions, involved in the crossing this round. No systematic studies of the current experimentations have been done yet, but some individual case studies by domestic scholars and media reporters do provide glimpses of the frenzy of models, as summarized in Table 2.1.

Table 2.1
Case Studies on Experimentations by Chinese Local Governments to Channel Collectively Owned Constructive Land to the Market

Location, Year and Author(s)	Purposes & Features
<p><i>Suzhou Model, Jiangsu Province (1996)</i></p> <p>Jiang Ailin, Ye Hongling and Zhang Yan, (姜爱林、叶红玲、张晏), 2000, “Comments on Suzhou’s Land Transfer Model—Some Theoretic Reflections on the Institutional Innovation of Collective Construction Land Transfer in Suzhou”, <i>China Land</i>, 2000 (11).</p>	<p>This model, developed in 1996, is among the earliest attempts in China to integrate the collectively owned construction land into the urban land market. The purpose at the time was to encourage and support the growth of township enterprises in rural areas, and to prepare the ground for eventual unification of rural-urban land use planning and management.</p> <p>The model allowed partial market transfers of collectively owned construction land for the uses of non-agricultural purposes, except large-scale entertainment and luxury real estate development projects. As long as the land to be transferred was not what had already been covered by municipal and county urban planning, or already assigned to the development of economic and hi-tech zones by provincial (and above) authorities, farmers were able to long-term lease or rent out the collectively owned construction land or turn the land into equity shares for starting new businesses. The majority of the revenue, i.e., 70% or more, went to the village communities. The rest was shared by city, county and township governments, in the proportions depending on whether the land transferred was primary or secondary.</p>
<p><i>Hangzhou Model, Zhejiang Province (1998)</i></p> <p>Zheng Mingchao (郑鸣潮,等) et al., “Benefiting the Farmers—Retained Land Management Experience in Hangzhou, Zhejiang Province”, <i>National Land & Resources Information</i>, May 2006.</p>	<p>Initiated in 1998 by Hangzhou Municipal Government, this model aims to facilitate smooth farmland consolidation readjustment, to gain more construction land for urban development. The initiative also aims to direct more urbanization benefits to the affected rural communities, and to help with rural-urban transition which is already taking place in the area.</p> <p>According to the model, the government is responsible for village consolidation and farmland readjustment, as well as re-planning the use of the land with necessary infrastructural investment. The government expropriates 90% of the reclaimed land and allocates it to urban developers according to the urban plans. The rural communities kept the remaining 10% of the reclaimed land, with three formal papers, i.e., “state-owned land certificate,” “title deeds,” and “real estate certificates” that give them legal ownership. This ownership allows the communities the rights to develop the land for industrial and commercial purposes, including factory buildings and high-end apartments, catered to foreign companies clustered in the area, for high rental income. As importantly, formalized land rights give village communities the opportunity to capitalize the land assets and use them as the security when accessing bank loans for developing their own businesses. Village communities were able to develop the businesses independently or in collaboration with outside partners. The land and properties were transferrable at markets, collectively through village committees but not individually; and the three certificates must be transferred together, not separately. Subdivisions were not allowed. These steps significantly increase and sustain the income for rural communities. Most of the community members are gradually transformed to urban residents.</p>
<p><i>Wuhu Model, Anhui Province (1999)</i></p> <p>Lu Bingke, Pan Ying, Liu Yao (卢炳克、潘莹、刘瑶) 2012, “A Comparative Analysis on Rural Construction Land Transfer Models—Case Studies on Wuhu and Nanhai”, <i>Legal System and Society</i>, 2012 (4).</p>	<p>The Wuhu model was piloted by the relevant township governments in 1999. In this model, the “collective ownership” of the land did not change and it remained with village communities, but the overall use of the land was uniformly planned and developed; while the land use rights were transferred by township governments participating in the pilot. Increased land revenues were shared with the village communities who remained as the “owners” of the land.</p> <p>In this model, the involved township governments first collaborated with each other to come up with a strategic land use plan covering all participating counties and villages. The plan included zoning elements dividing the area into zones with specified agricultural and construction use purposes. Village committees collaborated by gathering all the existing “household responsibility” contracts from individual farmers, and sign “Transfer Agreements” with township governments. The township governments then set up investment share-holding companies, which were legal entities to manage the development and trade of the land according to the zoning plans. The shareholding companies could sell or rent out the land use rights, using market mechanisms such as public biddings and auctions.</p>

	<p>Revenues generated from new land development and land leasing were shared by governments and village communities. Initially, they were divided among municipal government, county government, township government and village communities at the ratios of 1:2:5:2, respectively. Over time, the sharing pattern was adjusted to benefit more village communities and township governments. After 2002, the municipal government no longer shared the revenues. The new ratios become 1:4:5 for county government, township governments and village communities.</p>
<p><i>Nanhai Model, Guangdong (2000)</i></p> <p>Ji Rujin and Sun Zhao (季如进、孙钊), 2011. “A Study on Collective Construction Land Transfer”, paper presented at World Conference on Chinese Real Estate Study Association, 2011.</p>	<p>This model was piloted by Guangdong government in 2000, to deal with the situation in which “illegally” built commercial and residential properties by residents in “villages in cities (VIC)” were widely spread in Nanhai. Through this model, the original household land contract rights were monetized and VIC organizations were turned into share-holding companies in charge of the properties’ management. The kinds and amounts of the shares for each village household depended on what and how much the household had contributed. For instance, apart from the Basic Share, the household could also have the Contract Share based on the land use contracts surrendered and the Labor Contribution Share on the amount of labor contributed to constructions. Farmers now as shareholders gained participation in property management decision making and profit sharing, based on the amount of the shares they respectively held.</p> <p>This model succeeded in some way to formalize the properties built by previous farmers in VICs, while keeping the status of “collective ownership” of those properties. It guaranteed that farmers share the benefits of the appreciated land and property values. It also helped advance more unified and orderly land development and property management. Finally, through taxation of legalized village businesses, government render more financial gains. However, implemented in VICs only, it failed to resolve the planning inconsistency and even conflicts between these enclaves and the main city in which they locate.</p>
<p><i>Huaming Model, Tianjin (2005)</i></p> <p>Chen Weifeng and Lai Haofeng, (陈伟峰、赖浩锋) 2009, “Research Report on Exchanging Homestead for Apartment Program in Tianjin”, <i>Land & Resources</i>, March 2009.</p>	<p>In this model, called “exchanging homestead for apartments” and “exchanging land for insurance and compensation,” has been implemented by Tianjig government since 2005. In this model, the government takes a major role in acquiring the farmland, carrying land consolidation and readjustment, developing new infrastructure, and constructing new apartment buildings for relocated farmers. The government, by establishing state-owned investment corporations, finances these projects with loans from government-owned development banks, secured by the expected land value appreciation. The income from land transactions and land developments mostly adds to the government revenue in the form of an urban construction fund.</p> <p>Farmers, in the due course, exchange their homestead for an apartment in a new town, based on pre-set formulas and standards. Besides, farmers also receive monetary compensations, as well as some social insurance, for the loss of the farmland originally under their contracts. In addition, a portion of the land in each “new town” is set aside for market transactions (e.g., leasing, renting or other business engagements), and the revenue from these transactions remains in the town management for further improvement of the residents’ living.</p>
<p><i>Jiaxing Model, Zhejiang Province (2008)</i></p> <p>Mo Xiaohui, Lin Yibiao and Zhu Yonggao (莫晓辉、林依标、朱勇高),</p>	<p>The Jiaxing model, initiated by the local government in 2008, is relative known in China for its innovative way dealing with rural rights and facilitating rural-urban transition when conditions for such transition are ready. The “Two Divisions” refers to the separation of rural residential land and farmland. The “Two Exchanges” means to encourage farmers to exchange with the government: a) their old homestead for new apartments in new locations, often with additional monetary compensations; and b) their current farmland contracts for future shareholding, property leasing income, and/or social insurance. The “Two Division and Two Exchanges” program was promoted on a voluntary basis, and it means to pave the way for large area based land</p>

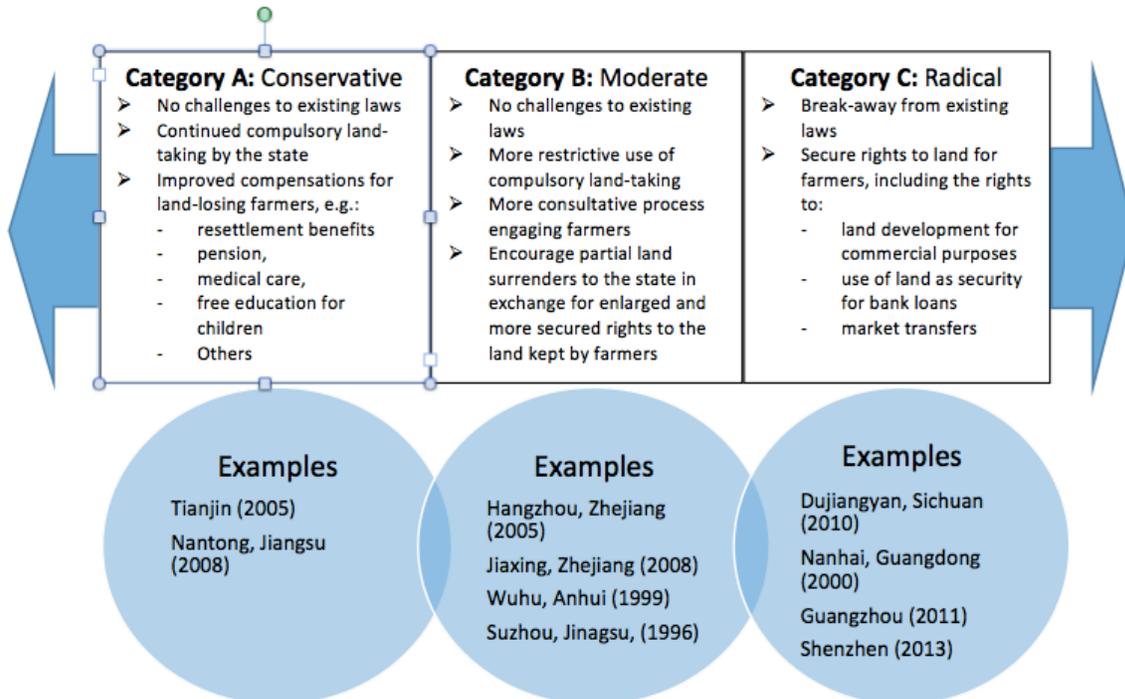
<p>2008, “Encouraging Farmers to Give Up Their Rural Status—an Investigation on ‘Two Division and Two Exchanges’ Pilot in Jiaxing, Zhejiang Province”, <i>China Land</i>, 2008 Issue (8).</p> <p>(For more details, see Annex 2)</p>	<p>consolidation and readjustment with the support of the rural population.</p> <p>The model has served its two major purposes. For the government, the gain has been the gain of additional construction land badly needed for further urban development. Also, land consolidation leads to improved efficiency of the use of limited land resource. For farmers, they gain has been the opportunity to gain increased income and improved living conditions. The voluntary principal is critical to ensure that farmers make lifestyle change choices based on their own preference. It also guarantees that the compensations are much higher than in the past cases of compulsory acquisition.</p>
<p><i>Nantong Model, Jiangsu Province (2008)</i></p> <p>Zhu Peixin and Liu Yuexi (诸培新、刘玥汐), 2012. “Innovation of Land Benefit Distribution Mechanisms in Rural-Urban Land Transition: A Case from the ‘Ten-Thousand- Hectare Fertile Land Development Project’ in Jiangsu Province”, <i>China Land Science</i>, October 2012.</p> <p>(For more details, see Annex 1)</p>	<p>The “Ten-Thousand-Hectare Fertile Land Development Project” was initiated by Jiangsu Provincial Government in 2008, aims at massive rural-urban land transition in conjunction with large-scaled land readjustments. The primary purpose of the project is to generate additional construction land by consolidating old villages, readjusting farmland, and relocating farmers to more concentrated living complexes. The additional land thus gained is made available for continued urbanization needs.</p> <p>There are two characteristics of this model. First, it proceeds in a government-led way. Farmers do not have much say in the planning, design and implementation of the project. Their rights to bargain on compensations and relocation subsidies are limited. Second, there is a large discretionary power in implementation by different municipalities and counties across Jiangsu. In the case of Nantong, the design of the program was such that farmers’ share of increased land values depended on the government's “consciences” rather than established rules and mechanisms in the system.</p>
<p><i>Dujiangyan Model, Sichuan Province (2010)</i></p> <p>Huang Yue, Yi Shengyu and Wang Yan, (黄跃、易声宇、王妍) 2011. “Seeking Answers from Practice – An Empirical Study on Self-Organized Land Readjustment and Land Auctions of Collectively Owned Construction Land by Farmers of Group 2 of Jinling Village, Tianma Town, Dujiangyan, Sichuan Province”, <i>China Land</i>, 2011 (11).</p> <p>(For more details, see Annex 3)</p>	<p>The Dujiangyan experience suggests a significant breakthrough of the existing legal system which prohibits farmers’ right to capitalize their land assets for commercial development and to transfer land use rights at markets. The model came into being in 2010, made possible shortly after the catastrophic Wenchuan earthquake. As the whole province was overwhelmed by the post-disaster reconstruction work, the villagers of Group 2 of the Jingling Village offered to take self-help actions to readjust the destroyed villages and farmlands, instead of waiting for government assistance. In return, they asked for a full right to own, develop and transfer land. The government gave its consent, under the condition that village reconstructions comply with the overall land use planning and building regulations. The government also required some sharing of land development profit, in forms of taxes and fees, to cover part of the cost of large infrastructure repairing and redevelopment for the region.</p> <p>Farmers obtaining the new rights went in rebuilding their villages and lands with great enthusiasm and creativity. Taking advantage of the natural beauty of the area, they put emphasis on developing commercially viable tourism businesses. They recovered and prepare the land in collaboration with banks and commercial developers, and openly auction some prepared lands at the “rural property exchange platform” facilitated by the government. The proceeds of land auctions exceeded the otherwise government acquisition compensation by multiple times, and were used to invest in newly formed businesses and improving the village life. Unfortunately, this practice was terminated by the government after a couple of years, under the concern that it set the example inconsistent with the existing law.</p>
<p><i>Chengdu Model, Sichuan Province (2003)</i></p> <p>Li, Lixing (李力行) 2012. “Land titling in China: Chengdu experiment and its consequences” <i>China Economic Journal</i>, (5) 1, February 2012; Tang Jian and Tan Rong, (唐健、谭荣) 2013. “The New Approach to Release the Value of Rural</p>	<p>Chengdu started some experimentation in 2003, and the effort accelerated after the 2008 earthquake. In this model, land transactions can be made at the specially established “rural construction land market.” The transactions do not change the “collective ownership” of the land, nor does it involve expropriation by the government. The transferred land can be used for industrial, commercial, tourism and service development, but not for developing urban residential buildings. Revenues mostly go to the farmers, after the due taxes and fees were paid to the government. Moreover, farmers are allowed to mortgage the collectively owned construction land for bank loans, or use it as equity for developing their own businesses. They can develop joint ventures with other business partners, including state-owned enterprises, private enterprises, banks and other financing institutions.</p>

<p>Construction land—A Comparative Study Based on the Experiences of Transferring Collectively Owned Construction Land in Rural Areas in Chengdu and Wuxi”, <i>Journal of Huazhong Agricultural University</i>, 2013 (3).</p>	<p>Through the practice, village communities gain an autonomous power to manage and develop their land, as long as they also follow the relevant regulations for zoning, construction and environment standards. The government plays a facilitation role in the model. It benefits from increased land supply for urban construction without undertaking land expropriation. The government, in fact, often participates in bidding for the rural construction land put at the market, or financing collectively owned development projects.</p>
<p>Guangzhou Model (2011)</p> <p>Liu Boen, (刘伯恩) 2012. “The Logics of the Transfers of Collectively Owned Construction Land”, <i>China Land</i>, May 2012.</p>	<p>In 2011, Guangzhou municipality initiated a unified land market which allows collectively owned construction land to legally enter trading without first being expropriated. Transactions at the market are done through open competition, using mechanisms such as bidding, auction and public listing. Land transfer purposes can be industrial, commercial, tourism, entertainment, and other businesses. The transfers can be based on selling, long-term leasing, renting, subleasing, mortgage and other forms. All transfers are under one condition: the collective ownership of the land does not change.</p> <p>For selling and leasing land, the village communities must convene an economic committee meeting or meetings attended by villager representatives. It requires two thirds of the committee members or villager representatives to agree on the transaction before it goes into practice. The government acts as a regulator of the market and it monitors the transactions. As such, it does not share the profits resulted from the transactions. The rural communities pay the necessary taxes and fees. The after-tax income is distributed among all members of the concerned rural communities.</p>
<p>Shenzhen Model (2013)</p> <p>Liu Xiuhao and Wang Qi (刘秀浩、王齐) 2013. “Shenzhen Approves Rural Construction Land to Enter the Market” http://www.dfdaily.com/html/113/2013/1/19/932158.shtml (刘秀浩、王齐, “深圳获批原农村建设用地入市”http://www.dfdaily.com/html/113/2013/1/19/932158.shtml)</p>	<p>In 2004, Shenzhen municipality announced a decision that all land within its territory, including previously collectively owned land, was hereon turned into “state-land,” with a view to unifying strategic land use planning and accelerating rural-urban transformation. This unilaterally decided land “nationalization” was immediately pushed back by farmer; and its implementation has not been successful since. Instead, farmers rushed into the so-called “small property right” (SPR) constructions, i.e., developing commercial and residential properties on their land, ignoring the government warning that such constructions are illegal. By 2012, SPR properties made up over 40% of the city’s total built-up space. This runaway SPR development has resulted in an ironic situation: the government which theoretically owns all Shenzhen’s land now finds it extremely difficult to plan and access the land. Developments of new infrastructure and other public facilities were severely impeded. Industrial and commercial developments also suffer.</p> <p>In 2013, in order to break the stalemate, Shenzhen Government altered its approach. In conjunction with the new policies announced by the Guangdong Province (see Guangzhou case above), the government announced a new scheme that would allow partial transfers of rural construction land at regulated market for industrial and commercial development. Based on the scheme, village residents are encouraged to voluntarily clear the land they built SPRs on, and bring it to the market for auction. The government promises to share the revenues from the transactions with farmers on 50/50 or 30/70 bases, depending on the location and status of the land involved. In case of 30/70 sharing, by which the government gains 70% of the benefits, farmer would be allowed to retain up to 20% of the total village land with a formalized right which they are free to develop for business purposes. This model is still new and its implementation effectiveness is yet to be seen. Nevertheless, given Shenzhen’s prominent urban status in China, it sends the nation a signal that collectively owned construction land could eventually enter formal market.</p>

A complete analysis of the ongoing experimentations is difficult at the present as there is not enough information of all that is going on. Moreover, as seen in the known cases, the pilots can vary widely in backgrounds, targets and implementation features. Nevertheless, a quick review of the known cases listed in Table 1 does suggest some shared patterns and characteristics. Diagram 2, with some arbitration, groups the cases into three general categories, ranging from *conservative* to *moderate* to *radical*, in terms of the changes attempted. By and large, the levels of reforms of the cases are correlated with the levels of overall reform and development in their respective locations. With a few exceptions, it appears that, where the general economy is more advanced in market development and local governments less dependent on buying and selling land to fill their deficits, the rural-urban land transition becomes more market-oriented and the outcome more lenient toward farmers' rights and benefits.

Diagram 2:

Recent Local Experimentations on Channeling Collectively Owned Construction Land to the Urban Land Market



More specifically, in Category A on the left hand, a relatively conservative approach does not challenge the existing legal system with monopolistic role of the government in land acquisition and conversion. Instead, focuses on improving the compensation packages for farmers. In the cases falling under this category, local governments continue, and in some cases even step up, farmland acquisition to fulfil their ambitious plan of urban expansion. Large-scale land adjustment schemes are also used to gain additional land for “new town” creations. At the same time, the governments avoid social confrontation by offering farmers more generous compensations and non-financial benefits. The latter may include increased relocation assistance, including providing newly built apartments with modern facilities. Often, relocated farmer may

gain an extra apartment or two that can be rented out to generate more sustainable income into the future. Other benefits, such as some kind of pension, medical insurance and free education for children, also become increasingly common as part of the deal. This approach appears most popular among local governments. In Annex 1, the reader can get more detailed description of the case of Nanton (Jiangsu), representing this category.

There are obvious concerns about this model. It changes little the way farmers' rights are treated or land is appropriated. Typically, governments make decisions on creating "new towns," with limited pre-consultation and negotiation with the affected farmers. To those whose concerns are land use sustainability, the new trend of large-scale land acquisition and land readjustment signal a danger of "the second stage of land battles" in China (Hsing 2010). It is suggested that, whereas land consolidation and readjustment can help increase land use efficiency, some "new towns" created are not practical and overlapping each other, just like the earlier overdevelopment of SEZs. It is further suggested that, although farmers seem to gain more compensation than before, much of the package will be paid in the future, such as in the cases of pensions and medical insurance. Therefore, there is a concern that the current governments simply transfer part of the fiscal burden to the future governments.

Category B, in the middle of the diagram, is a somewhat modified version of Category A. Like Category A, it supports government-led land consolidation and readjustment with a view to gaining additional construction land for urban expansion. However, the effort stresses engaging the farmers in the process, letting farmers more say in the decision making and benefit sharing. In some earlier cases under this model, such as Suzhou (Jiangsu) and Wuhu (Anhui), consultation and benefit sharing were limited and mostly done at the grass-root administrative levels, such as townships and village committees. As it evolved in more recent cases, seen in the case of Hangzhou and Jiaying (both in Zhejiang), a more participatory process respecting individual villagers' wills became more important. Local government designed and implemented farmland readjustment and village consolidation schemes were carried out based on the principle of voluntary participation by farmers, rather through compulsory acquisition. Furthermore, through government invests in infrastructure, the reclaimed land was better-connected, better-serviced, and commercially more valuable than before. This land was redistributed between the government and farmers based on pre-agreed formulas, i.e., part of it was surrendered to the government and part of it was for farmers to keep, develop and even transfer at the market. This approach seemed to create sort of win-win situation for both the government and farmers. In Annex 2, one can read more about how the Jiaying model was done to produce win-win results for both the government and farmers.

Category C suggests more radical changes. In this category, local governments start to step out the monopolistic control of channeling rural land into the urban land market, but allow farmers the right to own, develop and trade land properties in direct interaction with the market. There are some very different and unusual circumstances that made this approach possible. In the case of Nanhai (Guangzhou), the rampant growth of the so-called "villages in cities", a major form of SPR development in reality, pressured for some unconventional solutions. In the case of Dujiangyan (Sichuan), the overwhelming post-disaster needs after the 2008 Sichuan earthquake encouraged local governments to turn to completely new approaches including letting farmers the full land rights for self-help restructuring. The lessons coming out of these cases, though,

open the eyes of many. Farmers who gained the secured property rights were eager and able to use the rights to rebuild their homes, develop commercially viable projects, and make themselves richer in a much more orderly way. Village constructions became more regularized by zoning and construction procedures, and farmers started to share the costs of public infrastructure and services through tax and fee payments. In neither case was there evidence that farmers sell out their lands ignorantly and become landless, as some in the government had feared. Instead, farmers value the land more than ever once it becomes clearly their properties. Annex 3 provides more details about the Dujiangyan experience, for the reader's interest.

What can China Learn from the International Experiences?

The Big Picture: Global Urbanization and Land Policy Debate

At the first glance, the problem of “small property right” may appear unique to China. A further look reveals that many of the SPR difficulties—e.g., allocating land rights, regulating land use, coping with informal/illegal settlements—are, in fact, common concerns of many developing countries going through rapid economic development and rural-urban transition. Even the knotty issue of land expropriation, a typical Chinese issue, has been reopened for debates in many parts of the world, as governments are under pressure to make land available for industrialization, job creation, and public and private investment. In Asia, Africa and other parts of the developing world, government-led industrial zones or government-supported “anchor investment” projects by private firms have become popular and, in many cases, aggravated land use conflicts (Farole and Akinici 2011).

Land has always been a critical element for socioeconomic development, but the unprecedented urbanization process underlying today's global development has made the land issue more complex than ever. As highlighted in Box 3.1, urbanization leads to economic conglomerations, raises productivities, and generates wealth. It preeminates all countries moving from low to high income. At the same time, urban rises cause unbalanced growth concentration geographically and economic disparities among the people. Governments striving for both efficient and equitable growth need to apply policies that support the market force for urbanization on the one hand and cope with its deficiencies of even wealth distribution on the other.

Box 3.1**Understanding the Global Challenge of Urbanization**

The speed and scope of urbanization have been unprecedented around the world for the last century. Whereas just 15% of the world population lived in cities at the beginning of the 20th century, by 2012, more than 50% of the world population, or 3.5 billion people, were living in cities. Massive urbanization has been most notable in the developing world. As a result, two thirds of the world's urban population are found in developing countries today. This trend may continue in the next two decades. According to the United Nation projection, another one billion people will be added to the urban population by 2030; and almost all this increase will take place in the developing world.

The *market force* has been driving the rapid rural-urban transition, argues the World Bank's World Development Report 2009: Responding Economic Geography. Industries and large commercial activities favor cities, coastal areas and well-connected locations. They demand investment in infrastructure and public services which in turn attracts more industrial and commercial activities. Economic concentration offers new economic opportunities which attract people from rural villages. Growing production and people concentration inspires education and innovation, thus advancing economic efficiency and productivity. Unsurprisingly, cities generate more than 80% of world GDP today, according to McKinsey Global Institute; and they serve as the engine of growth around the world.

But, urbanization comes with a cost. The growth driven by it is "unbalanced," as pointed out by the same World Bank report. Massive economic concentration, when not accommodated by development of the necessary infrastructure, housing and public service support—as is the case in most parts of the world at least initially—leads to urban congestion and income divergence. Thousands and even millions of the urban poor, bulging with constant inflows of new migrants, are cramped into slums with precarious living conditions. According to the United Nation estimates, about one billion people, or one third of the world's urban population, dwell in slums today, without access to basic living facilities such as utilities, sanitation and safety.

To encourage fast growth and make it sustainable, it is important that governments of developing countries initiate proactive *public policies* that support the market force and encourage urbanization on one hand, and make growth more inclusive and benefiting all citizens including the poor. This requires efforts to develop infrastructure, provide basic services to everyone, and formulate land policies that encourage public and private investment while not leaving the poor behind. In the words of the World Development Report 2009, the challenge is to develop "institutions that unite, infrastructure that connects; and interventions that target."

Sources: McKinsey Global Institute 2011, "Urban World: Mapping the Economic Power of Cities"; United Nation, World Population Prospects 2012; World Bank, 2008, World Development Report 2009: Responding Economic Geography.

Good land policies are central to this quest (Lall, et al 2009). The topic of land, property rights, and their interactions with private investment and public development has been under hot debates globally for recent decades. The paradigm has been swinging back and forth between stressing the force of the market and the role of public policies. Box 3.2 highlights the various perspectives by scholars of a wide range of fields, pointing to the complex nature of land use policy and its significant impact on land market and many aspects of the social and economic development. In general, academics and policy analysts have come to agreed that both market force and public policies are critical to land use efficiency, equity and sustainability. However, the question of *how* the two functions properly interact with each other to produce the best results is still largely in the infancy of resolve (Rajack 2009).

Box 3.2

Land Policy Debate in a Changing Global Context

Land, property rights, and their interactions with socioeconomic development have been long the subject of a large literature -- from Adam Smith, through Karl Marx, right up to the present. However, it is only recently that policy makers in the developing world have taken an active role in creating and strengthening land property rights for citizens and economic entities as a vital mechanism for improving the lives of the poor. According to Hernando de Soto, whose landmark work triggered the policy trend in this direction, unlocking “dead capital”—land assets whose use is limited or that cannot be used as collateral—provides the key to unraveling the economic potential of the developing world. As he put it:

“What the poor lack is easy access to the property mechanisms that could legally fix the economic potential of their assets so that they could be used to produce, secure, or guarantee greater value in the expanded market. (de Soto 2000)

In recent years, more broadly-based empirical studies have buttressed earlier conceptual and anecdotal work, and shown that the effects of land property rights are large, and that the problems are widespread. The World Bank’s *World Development Report 2005* suggests, circumspcctly, higher rates of investment and productivity on titled land than on land with no title (World Bank 2004). Most recently, a number of studies provide cross-country evidence that suggests a correlation between the security of land and property rights, and increases in investment and income. (Acemoglu et al. 2001; Knack and Keefer, 1997; La Porta and others, 1997)

The importance of land goes beyond its economic impact. For many social and environmental scientists, land is an important foundation for societal well-being and stability (Deininger, 2003); a limited and increasingly scarce resource (World Resources Institute 2005); and an environment where alterations of its uses in one part can upset the ecosystem balance in another (Perlman 2009). It is thus generally agreed that private possession and use of land should conform to public interests through the compliance with accepted rules, regulations, and societal agreements.

Source: Shen with Sun, eds., 2012, *Untying the Land Knot* (World Bank, Washington D.C.)

Against this backdrop, China appears nothing unique but part of the evolving developing world struggling to balance fast growth and sustainable development. In fact, China, for its undisputable economic success, has intrigued many to ponder on the so-called “China model.” (Lin 1912) Such a model suggests that aggressive government intervention in land market has to some extent facilitated massive public investment in infrastructure and the rapid development of special economic zones that draw private investment, technology and talents (Gregory, Nollen and Tenev 2009). It is not accidental that recent studies of international organizations, such as the World Bank, frequently cite China as case to demonstrate some positive effects of public policies in industrialization and urbanization.⁴⁶ Some scholars have gone so far as to argue that the immense government-led land conversion and capitalization, despite all its known problems, allowed China the rapid ascent in modernizing its economy—a case that deserves attention from the rest of the world (Bertaud 2012).

At the same time, though, China has also come under the international spotlight for its poor records of observing sustainable and inclusive development standards while pursuing fast growth.⁴⁷ In particular, problems related to relentless land-taking, disrespect for farmers’ rights, deterioration of air, water and the general environment—all of which are among the most negative effects concerning many closely following the “China model.” As *The Economist* commentator once observed, insightfully, “China needs to change the way it is developing. The growth model driven by investment which yielded so much in past decades offers diminishing returns; it needs to be replaced by one fuelled in large part by productivity improvements and consumer spending.”⁴⁸ Clearly, how China manages to overcome the difficulties it is facing will not only determine the lasting benefits of the economic growth for its own people, but also have profound impact on the rest of the world in search for successful development models.

Just like the Chinese experience has a value for many parts in the world, the world also offers rich lessons that can help China shape its future policies and strategies. Direct cross-country comparison is, of course, difficult; and often inappropriate. Countries differ in size, culture, development levels, legal traditions, etc., all of which were important in shaping the particular land systems and land policy reforms. Still, some key principles in dealing with similar problems can be shared; and countries can and do benefit from each other’s experiences, not for simple recipes but as ingredients to design one’s own solutions.

The remaining of this chapter draws from the vast international experience some “best practice” examples which should provide useful “ingredients” to China. Experiences in three specific areas emphasized: securing farmers’ rights and benefiting them in land development; re-defining the role of government intervention, including expropriation and land financing; and dealing with informal/illegal settlements. The examples are selected not because they already represent the mainstream—in most cases they are innovative and new in places where the general situation is

⁴⁶ In its World Development Report 2009, focusing on urban development challenges, China’s experiences, especially its success in developing industries, cities and inter-city connection, are cited in numerous places as examples. See World Bank, 2008, *World Development Report 2009*.

⁴⁷ *The New York Times*, “Success of Chinese Leaders Ambitious Economic Plan May Rest on Rural Regions,” November 16, 2013; *The New York Times*, “New China Cities: Shoddy Homes, Broken Hope,” November 9, 2013;

⁴⁸ *The Economist*, “Briefing Chinese Land Reform: A World to Turn Upside Down,” November 2, 2013, pp. 25-27.

still bad—but because they demonstrate that progresses are possible even under the most difficult circumstances. In this sense, they provide hope to all countries including China.

The Paramount Task of Securing land rights for farmers

Respecting farmers' rights in accelerated economic development is a universal challenge today. As industrial and commercial development picks up the speed, it almost inevitably encroaches on rural land. Governments anxious to promote new investment and create jobs tend to support the trend (World Bank 2011). For the farmers, mostly traditional smallholders, this modernization trend presents potential, sometimes significant, opportunities; but this potential cannot be realized if their rights to land are not fully respected and protected (Shen and Hannah 2012). Unfortunately, in most places around the world, farmers' rights to land lack legal clarity. Moreover, their political voice is usually weak. Thus, when land use conflicts arise between new developments and traditional landholders, the latter often find themselves in a vulnerable position for self-defense (Burns 2007).

To make things worse, many developing countries have to deal with the problem of overlapping property rights. In Africa, for instance, a review of land laws in 36 countries reveals that more than half countries on the continent have its land governed by a dual-tenure system that overlaps the *de jure* rights of the government and the *de facto* rights of local communities (Shen and Hannah 2012). In many countries, the national legislation vest *all* land interest in the State, while, in reality, most of the land belongs to traditional land users. This complexity is the result of the colonial history, and the failure of post-colonial governments to rationalize inconsistent legislations over time. In other parts of the world, as in South Asia and Latin Africa, the parallel existence of formal titles and informal and undocumented land use arrangements is common (Denninger 2003).

Whereas traditional land tenure arrangements may work well in an agrarian society, they are not adequate when commercialized land use needs arise. Sometimes, incoming commercial developers give up investment ideas because they find negotiating land with villages too time-consuming and uncertain. Other times, governments that promote investment negotiate land deals with investors without fully consulting the farmers. There are also numerous occasions when the local communities themselves want to develop commercial activities on land but found their efforts hampered by insufficient legal and regulatory status of their communal land. As a result, frustration, disappointment and even conflicts over land become common (World Bank 2011).

While this general dilemma impedes modern development or hurts the politically weak in many countries, there are places where farmers, investors and local governments worked jointly to overcome the difficulties to make the results satisfactory to all. One good example is Makuleke, South Africa, a country known for land use conflicts between the state and local communities. In this case, local communities collectively negotiated and agreed with the State on the terms and conditions that allowed them to develop and manage a part of a National Park and the associated tourist lodges (Stern 2012). The agreed arrangements brought stable income to the community people while helping protect wild animals and conserving the environment, a priority concern of the government. Another example is the Macossa District of Mozambique, another country

where land disputes between the government and rural groups are widespread. In this case, an outside investor actively engaged local communities in developing a high-end ecotourism project, despite the existing law that denied the communities' rights to their ancestral land and, indeed, the earlier government offer to get the people off the land by force. The result was much better for everyone: the business was more successful, the local people benefited economically from the project, and the government did not need to use the police force (Tanner 2012). Larger efforts are seen in some countries to allocate rights to farmers and local communities at the national level to achieve much larger impact. Box3.3 highlights two examples, Namibia and Vietnam. In both cases, government efforts focused on continuously improving the legal framework for rural landholders. These reforms played critical role in improving the welfare of farmers and the indigenous groups, who in turn contributed significantly to improving the national economies.

Box 3.3 National Effort to Formalize Rights for Rural Communities: Namibia and Vietnam

The “Conservancy Act” in Namibia

Namibia inherited from its colonial history discriminating land tenures that allowed the right to develop businesses on land only to the state or white freeholders. In the 1990s, shortly after the country’s independency, the government decided to redress the issue by reforming the laws relating to the rights of the indigenous groups to land, natural resource and water management. Its 1996 Nature Conservation Amendment Act 5 was stipulated to particularly allow indigenous people to register their land as “nature conservancies.” Black communities thus gained the legal rights and financial incentives to use the land and wildlife resources to develop community-based tourism businesses. By 2007, over fifty conservancies were in operation under this Act, generating more reliable livelihoods for 220,600 indigenous residents. In the meantime, these conservancies helped promote more nature and environmentally friendly use of 118,704 km² of communal land now.

“Red books” in Vietnam

In 1981 Vietnam moved to a system similar to the Chinese “household responsibility system,” with land users entitled to keep surplus production above a fixed quota. In 1988 some individual property rights to agricultural land were transferred to farmer households. In the 1993 land law, the distribution of land use certificates—known as “red books”—was mandated. Red books come with the rights to sell, rent, mortgage, and bequeath land. So the idea of a land market was formally sanctioned.

Red books increase land market activities, and these activities increase agricultural productivity by transferring land to the most productive users, reducing inefficiencies. The liberalization of the land market has been followed by increased mobility as households sell land to take up new economic opportunities in the wage labor sector. So a more fluid land market has facilitated the ongoing shift in Vietnam from a predominantly agricultural economy to a more diversified and urbanized economy. It is a big part of a strategy that has yielded perhaps the most impressive poverty reduction in any country in recent history.

Source: Vietnam – Uda Nakamhela, 2012, in Shen with Sun eds. “Untying the Land Knot”; Vietnam – WB 2008 World Development Report, based on Ravallion and van de Walle 2006.

The experience of Mexico to reform its ejido (meaning cooperative) land regime nationwide, described in Box 3.4 is perhaps one of the best examples of how updating traditional land regimes is both inevitable and desirable when the modernization process has moved up to a certain level. In this case, the initial lack of sufficient attention to improving farmers’ rights and their desire for commercial development had led to “illegal” activities on the farmers’ side, together with the loss of tax revenue and construction control on the government side. The government took a resolute decision in the early 1990s to remove the legal bottleneck by amending the constitution so that ejido land users gained formal ownership and transaction right. This proved to be a timely step, and has since paved the way for new waves of development beneficial to both farmers and the government.

Box 3.4 Mexico's Reforms of the *Ejido* Land

Mexico suffered from the long-standing land-tenure inequality prior to the agrarian Revolution of 1910. Following the Revolution, the motto of which was "Land to the Tillers," the 1917 Mexican Constitution established the *ejido* (meaning cooperative in Spanish) land, to grant the access to land for the whole rural population. During the following several decades, the government redistributed half of the country's land from the State and rich landlords to the *ejido* communities. Under the provisions of the law, rural smallholders had the right to free use of the land, but they could not sell or lease the land to outsiders of the *ejido* communities. *Ejido* land was also protected by law from expropriation by the State.

For several decades after its legal establishment, *ejido* land played an important role in supporting Mexico's rural economy and social stability. Over time, however, the institution started to become inadequate in keep up with the quickened pace of growth. Land quality began to deteriorate and agricultural productivity declined, as many members of *ejidos* started to lose incentives to maintain the land. In areas near large metropolitans and along the coastal areas, small farmers gradually detached themselves from farming and were attracted to full-time jobs in modern sectors such as industries, commercial farming and tourism. In the meantime, as the commercial demand for land development grew high in those areas, many *ejido* communities began to negotiate with investors on land deals despite the fact that the law prohibited them from leasing or selling land. These land transactions were *illegal* and they were conducted outside the tax and planning regulatory system. They became a major concern of the government.

In 1992-1993, the Mexican government carried out a series of revisions to the Constitution to allow *ejido members* to become private land owners and legalized *ejido* land transactions. Under the new legal provisions, *ejido* communities can register land as groups, and under that registration can further allocate secondary rights to individuals. Every participating household can obtain a certificate to three types of land: the house plot, one or more parcels of individually cultivated land, and a proportional share of communal land.

Farmers in areas close to large cities such as in Guanajuato and along the coastlines in Sonora pursued parcel titling most aggressively. In areas that are more remote from urban and peri-urban fringes, such as in Central and Southern Mexico, farmers adopted group titles but were less enthusiastic about in parcel titling. Overall, the farmers' participation was high. Within one decade after the new law was in place, more than 100 million hectares of *ejido* land were registered. By 2005, 97% of all villages participated. Over 95% fully mapped communal boundaries, internal parcels and house lots. By mid-2006, over 8 million certificates of title had been issued.

Improved property security has encouraged the community groups to invest more in land, which has increased maize yields to about 5 ton per hectare, more than twice the state average. Secured rights coupled with progressive investment promotion have also allowed the community to form joint ventures with outside entrepreneurs. To date, the communities have signed over 3,000 commercial contracts with large national and international corporations. Using the formalized titles, individual farmers can also sign the rental contracts with commercial farmers and benefit from the regular rental income as supplement to their livelihood.

Some had worried that allowing small farmers to transfer land would lead to the danger of creating "landless farmers." This concern did not prove valid. Most *ejido members* were clearly interested in gaining the formal rights to the land so that they have clearer control of the land and can make own decisions over it. However, they showed interest in holding on the land ownership, and preferred renting than selling it out.

Source: World Bank case study, 2010, in "Rising Global Interest in Farmland;" Eric Perramond, 2008 "The Rise, Fall and Reconfiguration of Mexico's *Ejido*," *The Geographic Review* 98(3) pp.356-371, July 2008.

Each of these examples had its specific socioeconomic contexts, but they have one thing in common: securing land rights for farmers is essential to inclusive and sustainable growth and development. Farmers are both important producers and consumers in developing countries, and having their full participation is the key to successful rural-urban transformation. If the growth is achieved at the cost of their interest, as it has happened in some places, the poor become poorer, creating socioeconomic problems which government. On the other hand, as seen in the cases mentioned above, when government policies for development incorporate and encourage them, they can make positive contributions to the economy. It is particularly interesting to notice in the Mexican and other cases, farmers value their land assets more once they gain a full land ownership. They can be as smart entrepreneurs as anybody else. Therefore, the assumption that they might “sell out” land if left on their own seems weakly-based.

The Role of Government Intervention in Land Markets

The role of the government to directly or indirectly intervene the land market is among the most contentious topics in land policy discussions. It has been traditionally accepted that governments have the right of eminent domain to acquire and develop land to build public infrastructure such as roads, dams, utilities and other facilities of “public interest.” It has also been widely recognized that governments have the responsibility to plan and regulating land uses so that individual development projects are carried out in consistence with established safety, health and environment rules and regulations for the sake of the public interest.

Strong government intervention using the power of *eminent domain* and land use planning was seen in the various development stages of many now advanced countries. The most well-known case is the significant transformation of Paris from a dirty medieval town into a beautiful modern city in the mid-19th century, through a “bulldozer-like” approach innovated by Haussmann (Kirkland 2013). In more recent history, governments of Singapore, Japan and South Korea were also known for using, arguably successfully, the state power to acquire, consolidate and develop land to build infrastructure and restructure cities (Kataka and Collies 2002).

In recent years, however, as public-private partnership in infrastructure becomes increasingly common, and as private investment in industrial and commercial development are promoted by governments as “strategically important” to national or regional development, the definition of “public interest” becomes blurry, giving rise to the question as how to redefine the justification of expropriation. Although official data regarding compulsory land taking are generally lacking, anecdotal evidences show that the practice is rising in some parts of the world. In East Asia, for instance, it is not unusual that emerging market governments take a leading role in land consolidation and preparation in order to develop concentrated industrial and commercial centers and attract private investment. In some parts of Africa, governments have also been seen stepping up the effort to acquire and consolidate land in order to promote investment in large-scale commercial farming, industrial zones, and other so-called “anchor” investment projects expected to bring jobs and income to the local economy (Deininger and Byerlee 2010). Even in the contemporary United States, the definition of “public interest” justifying land expropriation is sometimes debated. In the famous 2005 Kelo case, for instance, the Supreme Court decision supported a broad definition of “*public use*” in the Constitution, allowing “economic

development” to be considered a valid use of the power of eminent domain.⁴⁹ A recent survey of the expropriation cases in 239 largest cities in the US found that almost half of the cases conveyed expropriated land to private real estate developers (Cypher and Forgey 2003).

At the same time, there has been a widespread concern that compulsory land-taking and forced human resettlement bring undesirable socioeconomic impact that can particularly hurt the poor and the vulnerable (UN 2011). Many fear that expanding expropriation power into the commercial area would breed corruption, at the cost of common good (Cotula, Vermeulen, Leonard and Keeley. 2009). Therefore, in the international development community, it has been generally advocated that governments restrain themselves from compulsory land-taking and direct land management related to commercial development, but rather focus on providing infrastructure, securing land property rights to all citizens, and, at the same time, using special measures to safeguard the poorest and most vulnerable social groups (Azuela and Herrera-Martin 2010).

For the reasons mentioned, some governments have moved to define “*public interest*” more clearly in order to help operation while restrain the state power. Japan, for instance, developed precise lists of the kinds of projects that justify the use of expropriation. Many Commonwealth countries, likewise, define “a public purpose or a public use” being the nature of “public interest.” Rulings by the European Court of Human Rights have forced many European countries, including France and Italy, to adopt new legislations to restrict the rights of the governments to expropriate land (Coban 2004). Some governments, such as the United States, focus on stringent judicial and administrative procedures for expropriation, thanks to which expropriation continues to serve as a development instrument with societal support. As shown by the special examination of the expropriation cases in 239 US cities, only a fraction of 3% of the cases caused litigations or extensive delays in the development due to disputes.⁵⁰

International development organizations have generally taken a strong position that expropriation be used only “as a last resort to provide public goods;” and, if it is unavoidable, be carried out with strict procedures to protect the unfavorably affected people. Box 3.5 summarizes the “Performance Standard 5” of the International Finance Corporation, the private sector development arm of the World Bank Group, as an example.

⁴⁹ Full text of the decision “*Kelo v. New London* (04-108) 545 U.S. 469 (2005),” is available on Cornell University’s Law School Legal Information Institute website.

⁵⁰ In the survey by Cypher and Forgey, covering 239 cities, only 3% of the expropriation cases led to litigation and caused delay.

**Box 3.5
Sustainability****IFC Performance Standard 5 on Social and Environmental**

In 2006, the International Finance Corporation (IFC) developed more detailed performance standards on social and environmental sustainability, to provide governments and private investors with specific guidance on how to avoid or reduce the risks associated with the acquisition of land in developing countries. The new provision, called *IFC Performance Standards 5*, focuses on “involuntary resettlement” with a view to preventing long-term hardship and impoverishment for affected communities. It supports the principle that involuntary resettlement should be avoided or at least minimized. However, where it is unavoidable, appropriate measures to mitigate the adverse impact on displaced persons and communities should be carefully planned and implemented along the following lines:

- To avoid or at least minimize involuntary resettlement wherever feasible by exploring alternative project designs
- To mitigate adverse social and economic impacts from land acquisition or restrictions on affected persons’ use of land by (a) providing compensation for loss of assets at replacement cost and (b) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected
- To improve or at least restore the livelihoods and standards of living of displaced persons
- To improve living conditions among displaced persons through the provision of adequate housing with security of tenure for resettlement sites.

Source: International Finance Corporation.

There are countries that face severe disadvantages in their natural conditions, such as scarcity of land, overpopulation, or fragile terrains, which make more stringent land use planning, large-scale public works, and thus active government intervention in the land market essential. Nevertheless, even in these countries, governments can demonstrate self-restraint from resorting to expropriation, but maximize the effective use of market force. Box 3.6 shows Netherland as a good example. In this country, large parts of the land are below the sea level and the national economy (and indeed its basic survival) depends on constant, large-scale land reclamation, a role that requires collective efforts involving the whole society. Over the years, the government has developed a comprehensive policy, legal and administrative framework which enables itself to successfully lead in land development while actively interplay with the market to ensure land use efficiency and transparency. It is particularly noticeable that, by mastering market mechanisms, the government has mostly avoided to resort to the power of expropriation but buying and selling land through the market.

Box 3.6 Netherland: What Makes the Government Do a Good Job in Land Market Intervention?

In Netherland, land is mostly privately owned but is taken into temporary public ownership when it is to be developed or redeveloped. This rather unique public role in land development is necessitated by the fact that a large part of the country is below sea level and constant efforts are required to prevent inundation and upgrade the “man-made” land. Such efforts include building dikes, draining the land, re-planning, putting in the necessary services, such as the roads, cycle tracks, footpaths, gas/water/electricity, etc. The scale and complexity of these efforts make it a too costly and risky responsibility for most commercial entities.

Municipal governments are primarily responsible, by regularly acquiring large tracks of land from private owners for re-development. After the land is drained and new infrastructure is put in place, the land is re-planned and the serviced building plots are sold back to private developers and other land users. It is estimated that up to 80% of the land for industrial and commercial construction is provided by municipalities. Private developers generally prefer to buy or lease readily developed and well-serviced land plots from municipalities. The public opinion is also generally in favor of such an important role of municipalities in land development.

There are several important factors that make the system work sustainably:

1. *The primary goal of the municipality in this intervention is not to seek profits*, but to support industrial and commercial development while providing affordable housing for all citizens. To achieve the goal, municipalities usually strive for revenues from plot sales that are adequate to cover all the expenses involved in land acquisition and land redevelopment. If some profits are gained in some projects, they are usually used to subsidize the projects that generate losses or to support other public works. The principle that municipalities do not seek big profits in land development is very important to maintaining the public opinion in favor of their dominant role in this area. Otherwise, commercial interests would not be willing to leave land development to a public body, and the temptation to act corruptly would be great.
2. *The operation is based on strong rule by law*. There is no special law that gives municipalities the exclusive power to develop land; and they have to act upon the power available for all private persons. As such, the transaction between municipalities and private land sellers and buyers is voluntary and subject only to the regulations of the Civil Code which strongly upholds the rights of ownership over land and property. When buying land, for instance, municipalities must offer a price attractive to the private landowner, who can always refuse to sell if not satisfied with the price offered. In reality, land must be purchased at the market value plus the expected gain from the “completed development.” This often means twice the current property value. “Compulsory purchase” is allowed by Dutch legislation on several grounds, including “in the interest of spatial planning and housing.” However, the mechanism is very rarely used, because the prices offered by municipalities for amiable purchases are usually sufficient to please most landowners.

(To be continued)

Efficiency, professionalism, and transparency. Land redevelopment is a highly complex process involving many government policy making bodies responsible for, among other things, spatial planning, land policy, housing policy, and transport policy. It also takes collaborative efforts by government agencies with functional responsibilities (e.g., water, roads, power, etc.), at different administrative levels (e.g., national, municipal), and/or across regions (e.g., 2 abutting municipalities). Netherlands succeeds by putting high standards on government leadership, inter-ministerial cooperation, and overall professionalism in civil servants. Public bodies have clearly designated mandates and responsibilities, while being required to work closely with each other to deal with complex development issues—under the motto of “One Government.”

There are established mechanisms for coordination, both “vertically” (i.e., between the tiers of governments) and “horizontally” (within one tier, between the various agencies such as housing, planning, transport, environment). In addition, informal consultation is strongly encouraged, by simple things such as making agency buildings to be within the walking distance to each other, and giving the public agency employees the entry passes that allow them to easily access each other’s buildings.

Civil servants are recruited competitively based on educational background, previous work experience and motivation. It is the government policy that the employment conditions are “harmonized” with the private sector so that civil servants are paid competitively in the labor market. The government invests a lot in enhancing professionalism in civil servants, especially in lawyers, accountants, financial specialists, etc. To assure high policy making capacity, the government sets up an Academy for Law Making.

Finally, there is a strong emphasis on administrative ethics and transparency, which is built on a firm legal basis provided by the Constitution and the Government Accounts Act. The Court of Audit, which is independent from the government, regularly audits government agencies to ensure that they use funds from the public purse correctly and effectively. The Court of Audit also conducts regularly audits of non-government institutions that receive public funds to carry out “statutory tasks.” Senior public servants are charged with the protection and promotion of ethics. Any breach of ethics can be reported to the Internal Security service. For all these efforts, Netherlands is unsurprisingly recognized as one of the top ethical governments in the world.

Sources: B. Needham, 1988. “The Dutch System of Land Ownership and Use,” in *Ten Paradigms of Market Economies and Land Systems*, Cho and Kim eds., Korea Research Institute for Human Settlements, 1998; and United Nation, 2006, “Kingdom of the Netherlands: Public Administration Country Profile;” United Nations, Division for Public Administration and Development Management Publication, March 2006.

Whether in the case of expropriation, or in the case of government purchasing land from private parties, rules regarding *who* is entitled to *what* financial compensation are extremely important. The question is also inevitably difficult where there is no sufficient tenure system that clearly defines who owns the land, and where there is no developed land market to provide transaction-based land value information.⁵¹ This brings us back to the fundamental importance of reforms to secure tenure rights and develop land markets, as discussed previously. In other words, governments aimed to sustain land use efficiency and equity would find it necessary to improve tenure systems including the recognition of existing rights of individuals or groups that have not been traditionally legalized. Even some developed countries have to continue to tackle such a need. For instance, Australia, Canada, New Zealand and the United States all had to launch special programs to improve the aboriginal rights, in order to allow the native populations the same economic and legal rights when development opportunities move their way (Azuela and Herrera-Martin 2010).

Finally, land based financing in support of public infrastructure requires a special note. Many governments in the world have resorted to this instrument to overcome the financial shortages typical in the early stage of development. The forms of land-based financing, however, vary from country to country; and even within the same country can change over time. A lot depends on the interplays of the countries' fiscal and institutional dynamics. Box 3.7 gives some examples. It shows that, regardless the forms, one principle stands out common: as public infrastructure benefits private investment and private investment contribute to general economy, the costs and the benefits of infrastructure should, and can, be shared by the public and private parties. There is no one way to implement this principle, but whatever schemes put in place, the cost and benefit sharing should be fair and transparent in order to make it work.

⁵¹ German, J.C., Robinson, D and Youngman, J., 2000 "*Traditional Methods and New Approaches to Land Valuation*" in Land Lines, July 2000, Volume 12, Number 4, Lincoln Institute of Land Policy.

Box 3.7 Examples of Land-based Financing for Urban Infrastructure Development

Land has a long history as an instrument of infrastructure finance. Although there are many forms of land-based financing, three main categories are seen around the world:

Developer exactions—A development permit condition as a way to make the private developer to share the cost of public infrastructure and public services needed to be delivered to the development sites. The developer recovers the cost when he sells the developed land. In the United States, local governments are allowed to impose the “**impact fee**” on a subdivision developer as a way to make the developer to bear some or all of the costs of the off-site infrastructure associated with the development project. A variation of the “impact fee” is what’s called “**linkage fee**,” which allows local governments to require developers to share the cost of providing affordable housing and community facilities as anticipated to be caused by the new development. Developer exactions can also be formed in **physical exactions**, e.g., to require the developer to devote a portion of the developed land to public pathway, other infrastructure uses, affordable housing, schools and other public facilities. This way, private land owners and developers share the burden of social cost and/or off-set any adverse impact the new development project may have on the local community life.

Value capture—a way that helps local governments recover its urban infrastructure investment. A typical practice of this is the “**betterment levy**” imposed by governments on land property owners based on the estimated gains in land property value resulted from public works projects, as seen in UK and Columbia. In the case of Columbia, a “betterment levy” of 30-60 percent, applied prior to the 1980s, provided a main source of public financing for infrastructure. However, estimation of land value gains parcel by parcel was difficult and often contentious. In Columbia, this levy started to cause frequent administrative disputes, and, after the 1990s, it was replaced by a simplified form, e.g., **a general infrastructure tax** loosely associated with gains in land value.

Public land divestiture—A way that allows governments to **sell/lease public land** parcels to private developers, and then to use the proceeds to finance public infrastructure development. A large number of countries have resorted to this instrument, e.g., Egypt (selling desert land, 2005-2007), Istanbul (selling old city bus stations, 2007); Cape Town (selling Victoria & Albert Waterfront property owned by the national transportation authority, 2006). When well done, this helps governments to put valuable vacant land to productive use through the market, while gaining the capital for focused infrastructure development. Public land divestiture, however, carries high risks: most public land sales are conducted off-budget through private negotiations which invite corruption and undue profits capture by the public agencies which happen to be in charge. To mitigate the risks, it is important to have open and competitive process of land sale/lease (e.g., auction and competitive bidding). It is equally important to have transparent public accounting for the use of the revenues.

Source: George Peterson, ed.: “Unlocking Land Values to Finance Urban Infrastructure,” (World Bank PPIAF, Barnes & Noble, 2008); other World Bank country reports.

Dealing with informal settlements

Despite some uniqueness of the “small property rights” in China, the phenomenon in many ways resembles the “informal settlements” that have been occurring at unprecedented rates around the developing world. Informal settlements, also referred to as “illegal settlements,” or simply slums, have become especially common in countries undergoing the initial stage of urbanization, with urban populations swelled by massive influx of rural migrants. According to the United Nations Human Settlements Program, nearly one billion people—one third of the world’s urban population—are currently living in slums. The ratios of slum dwellers are the highest in Sub-Saharan Africa (71.9%) and South-Central Asia (58%); and are also significant in East Asia (36.4%), and Latin America (32%). (UN-Habitat 2003)

There is a wide range of types of informal settlements, but the two basic ones are: (a) those built without following zoning and construction regulations; and (b) those developed on land without clear tenure ownership. Typically, informal settlements flourish in city fringes where governments fail to provide the needed infrastructure services to match the rapid spatial and population expansions. They also spread widely where there lacks a clear legal and institutional framework to recognize and respect existing land rights, either public or private. Often, they are the result of both. In such cases, the poor residents have no other choices but take “self-help” actions which result in informal settlements (Turner 1976; Gilbert and Ward 1984,1985; Durand-Lasserve and Selod 2009). In other words, the appearing of informal settlements mirrors how resources within urban society are allocated and how the operation of political and administrative power at city level affect the living of the poor (Gilbert and Ward1985, 2009).

In the long run, many would agree, informal settlements are not good solutions for the poor. In most places, they offer the dwellers sub-standard living conditions, featured by cramped spaces, unsafe building structures, and dismal facilities of water, sewage, and other essential sanitation services. Slums often lack easy access to road and public transportation networks, which limit the job opportunities for their residents. To the general public, uncontrolled spread of informal settlements represents threat to healthy urban development. In some places where such settlements have grown out of control, they have come to be the source of concerns regarding diseases, crimes and haphazard environment degradation (UN-Habitat 2003).

National governments and international development organizations have struggled over the decades to cope with the problem of informal settlements. In the earlier years, the main approach was demolitions of informal or illegal buildings, and forced relocation to new housing projects built by governments. Although there were some success cases of this approach, as seen in Singapore (Box 3.8), most such programs failed to deliver what they promised to the people while generating high costs for the governments. In numerous cases, forced relocation simply moved problems from one location to another (Buckley and Kalarickal).

**Box 3.8
Intervention****Singapore: from Slums to World City through Credible Government**

At independence in 1965, 70 percent of Singapore's households lived in overcrowded conditions, and a third of its people squatted on the city fringes. Unemployment averaged 14 percent, GDP per capita was less than \$2,700, and half of the population was illiterate. Falling mortality rates and migration from the Malay Peninsula implied rapid population growth, further increasing the pressure on housing: 600,000 additional units of housing were needed, and private supply was less than 60,000.

The Singapore government launched comprehensive reforms aimed to transform the situation. It put the first priority on providing infrastructure and services. It focused on strategic land use planning, with multiyear plans produced, implemented, and updated. Its housing authority (HDB) was mandated to undertake a massive program of slum clearance, housing construction and urban renewal. Through the Land Amalgamation Act, the government acquired almost one-third of city land, and in return made serviced land available to new development. Public housing has been an integral part of all development plans. Slum dwellers were relocated to public housing. Consequently, 86 percent of Singapore's population lives in publicly built units.

The Singaporean government has based its successful intervention on institutional reforms that makes the government known for its accountability. The development is not without problems, and the approach is not static. Over the years, the government has kept up its performance by responding to the new business and residential needs, by engaging the stakeholders, and by increasingly shifting the focus of control toward facilitating development. The planning authority has owned the respect from the community, scoring at a high 90% on customer satisfaction of its facilitation service.

Source: Excerpts from World Bank World Development Report 2008; Yue, B. 2009, "Guiding Spatial Changes: Singapore Urban Planning" in Lall and others, eds., Urban Land Markets.

For these reasons, governments have over the years shifted more emphasis to slum upgrading and integration. Under this approach, the focus is on improving the living conditions of the existing settlements, and relocation is only used when there is encroachment of public infrastructure or there is a need to address hazardous environmental issues. Box 3.9 provides the example of Kampung Improvement Program, initiated in Indonesia in the 1960s to promote slum upgrading. In Latin America, slum upgrading has become fairly standard practice, to replace the slum removal philosophy. Moreover, physical improvements of slum conditions are often combined with improved legal and institutional arrangements for property ownership of the residents, as seen in El Salvador, Guatemala and Peru (Buckley and Kalarickal 2006).

Box 3.9

Indonesia: Slum Upgrading Based on Community Participation

The Kampung Improvement Program (KIP) is a large slum upgrading program initiated by the indigenous communities and supported by Jakarta municipal government in the 1960s. Covering 200 communities and involving multiple local government departments ranging from planning to infrastructure authorities, KIP is arguably the largest slum upgrading program anywhere, and ranks among the best in terms of urban property relief.

Several factors contributed to the program's success. First, ownership and empowerment of the residents are the underlying force for active community participation emphasizing the long tradition of self-help. Second, government-community cooperation is based on the principle of mutual-aid. The professional teams set up by the government had to go out into the slum areas to talk to the people and work with them throughout the program. Finally, an integrated package of improvements across the sectors, including planning, physical works, health care and grass-root education, was made possible by the committed top leadership, the Governor in this specific case.

Source: Buckley and Kalarickal, eds. 2006, *Thirty Years of World Bank Shelter Lending: What Have We Learned?* (Washington DC)

The overall effectiveness of the various government interventions in coping with informal settlements is still being debated.⁵² However, scholars and policy analysts have come to agree on one thing: community participation and stakeholder engagement provide the key to effective and costs-efficient interventions (Dasgupta and Lall. 2009). In the case of Kampung, slum residents are willing and able to cooperate with the government once they see the self-interest in the programs. In another known case, in the suburban Lima, the previous squatters provided most of the construction labor supporting the government program. In return, they gained better living environment that have paved streets, piped water and street lighting. These communities are now integral part of metropolitan Lima. A World Bank study summarizes this important lesson: “ownership and empowerment are the underlying principles behind successful community-driven development, as there is a direct relationship between the degree of beneficiary participation and the sense of ownership and prospect for ongoing sustainability.” (Buckley and Kalarickal, eds. 2006)

⁵² The World Bank commissioned studies to provide guidance on how to evaluate slum upgrading programs. Field, E. and M. Kremer 2005.

Conclusion

Fast-paced urbanization and modernization give rise to land use conflicts, in China and around the world. This is not necessarily bad news, as it is a sign of economic progress. However, economic structural transformation and the necessitated changes of land use patterns can be difficult and even painful. They put pressure on the traditional society and land management systems. To upgrade the systems is necessary, but—if not well-managed—the process could hurt some of the involved, particularly the poor who do not have a strong political voice in the policy making process. In the long run, sacrificing the weak in favor of fast economic growth would backfire, causing social and economic conflicts that impede the final success of the reform and development.

The role of the government is critical to this transformation. Undeniably, proactive government intervention in China has made well-located and well-serviced land available for infrastructural, industrial and commercial development which has helped accelerating the country's economic growth for the recent decades. In contrast, governments in some places in the world, taking an inactive and passive role in this aspect, have resulted in sluggish economic takeoff, as serious difficulties in access to land impede infrastructural and business development.

However, government intervention in making land available for infrastructural, industrial and urban development carries its risks. In the case of China, an urban-led growth strategy, persistently in favor of the GDP growth rate but without sufficiently incorporating the rural needs, has led to urban-rural imbalance and social and environmental unsustainability. The recent emergence of chaotic “small property right” (SPR) development by farmers is the result of policy failures to give farmers the legal rights and benefits they deserve in land development and economic progress. The SPR problem, if not stopped in time, could further damage sustainable development. Nevertheless, the solution will not be simply to punish the farmers, but to trace the roots of the problem in the existing policy and legal systems that pushed them into SPR practice. In the long run, it is essential to let farmers to legally participate in the land market development and economically benefit from such development.

To this end, a combined set of actions are in order. First, securing farmers' property rights is fundamental. Like farmers anywhere in the world, Chinese farmers value land as their most important assets. The rights to own, use and transfer such assets give them the basic production incentive and empower them socially and economically. Chinese farmers demonstrated an outburst of productivity thirty years ago, right after reforms replaced the “collective farming” system with one emphasizing “household responsibility.” Today, as the economy has further progressed towards a modernized society, the limits of the “household responsibility” system have become obvious, and farmers' desire for full property rights is increasingly irresistibly. Further reforming the system to satisfy the desire of 600–700 million farmers will be crucial to China's economic success in the next stage. The failure to do so could be counterproductive and even dangerous. In rapid economic transition, standing still would mean going backwards.

Second, strengthening farmers' rights requires parallel efforts to restrain the state power of expropriation. Compulsory acquisition and conversion of farmland for the purposes beyond the

essentially needed public infrastructure and publically accessible facilities have damaged farmers' confidence in government policies, and should be severely restricted if not entirely abandoned. Moreover, ample evidences suggest that government monopoly of land-conversion has not prevented but encouraged excessive and often wasteful land-conversion, as local governments driven by short-term growth incentives neglect long-term economic goals. Furthermore, the administrative effort by the central government to curb the trend has not been effective. To protect farmland resource, it seems, more legal changes restricting local governments in compulsory land-taking are urgently needed.

Third, reforms in the current fiscal structure are important. Perpetuated local governments' deficits have contributed to relentless land-taking and added pressure on the tug-of-war between local governments and farmers over the land value appreciated due to new development. Therefore, combined fiscal and land policy reforms are necessary to reverse the SPR trend and significantly improve the government-farmers relationship.

Fourth, the need to meet the affordable housing demand in cities is part of the solution equation. As long as there is a shortage of supply of affordable housing, there will be a high demand for SPR properties; and, as long as there is a high demand, farmers and developers will continue to be incentivized to rush into SPR development. Prohibiting new SPR development or, worse, demolishing existing SPR properties could put immediate pressure on the living conditions of the urban poor, including the large group of migrant workers. It would cause social tension, unless alternatives of affordable housing are made available.

There is an increased recognition of local governments of the need to let farmers to participate in the modernization process and to share more economic benefits from it. As seen in the various case studies, local governments are experimenting new practices ranging from improving the compensation packages for farmers to issuing farmers full and formal land rights comparable to urban citizens. Despite the wide variety of new experimental models, the overall trend is to make farmers more satisfied with the economic results and creating long-term production and income alternatives for them. The studies also suggest that, when government land consolidation and development programs start to incorporate the farmers' economic needs, their implementation becomes more effective as farmers become more cooperative and supportive for government schemes.

Although problems are many and complex today, there is no reason to be pessimistic. China is on the way to modernize, and the problems it has encountered are problems of rapid development. The SPR phenomenon simply reveals the obsolete parts of the current system that need to be updated to match the social and economic progresses. China has encountered many serious systemic obstacles in its land market reforms since it embarked on the historical transition over three decades ago; and it has managed to overcome them through courageous reforms and pragmatic solutions. China also benefited from international experience in its past reforms, and can continue to do so in the now more globalized information age. In return, how China succeeds in meeting the new challenges in its continued land market reform will send useful lessons to many other developing countries in the world facing similar challenges in seeking the paths for growth and development.

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