



# Are they satisfied with land taking? Aspects on procedural fairness, monetary compensation and behavioral simulation in China's land expropriation story

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## ABSTRACT

Farmland expropriation and the associated satisfaction or otherwise of farmers has been receiving increased attention under the background of China's rapid urbanization. We use a literature review to identify specific gaps that need to be filled: (1) where and how the satisfaction of land expropriation comes from? (2) how to effectively measure the level of satisfaction? The evaluation of satisfaction is considered to come from three stages of pre, during and post expropriation. This paper aims to examine two groups of land-taken and land-kept farmers by using the binary nonlinear model, logit and order-Probit regression, blinder-Oaxaca decomposition and Heckman two-step selection as the data analysis method. Two research questions are raised in an extended Institutional Analysis and Development (IAD) framework, including: 1) which factors mostly affect farmer's willingness and satisfaction in the IAD framework? and 2) what is the marginal effect of different factors, especially of the interaction between land compensation standards and the openness and fairness of expropriation procedures? The four main results indicate that, firstly, improvement in the compensation criterion is helpful for improving the level of satisfaction, but does not mean that higher compensation is better, because empirical research indicates that simply increasing the amount of compensation does not significantly increase satisfaction unless the farmers are consulted over the land-acquisition procedures and compensation amounts. Second, the most important aspect for the farmers is how much their income level increases, 'inequality rather than want is the cause of trouble' and, in the absence of any consultation, 'waiting for the right place to sell' in the next round. Third, compensation should be allocated to the farmer instead of the rural collective. Fourth, according to the theories of resource endowment and reference dependence, to explicate the negative effect between the strength and perception of property rights, it is considered that the inter-relationship between land ownership and farmland circulation is uncertain. Whether the influence is positive or negative mostly depends on the strength of the property rights, institutional environment, behavioral cognitive ability and the capability to implement or act.

## 1. Introduction

Land expropriation in China has been causing widespread concern in both academic and practical circles. One of the challenges is that the land compensation price established under the planned economy system is not enough to compensate the land value in the market economy (Chen and Zhang, 2007; Guo and Gao, 2014; Wang and Ling, 2013). However, studies have yet to answer why it is necessary to improve the compensation criterion for land expropriation – will a higher compensation price for land requisition be better? The right for

farmers to resist their land being taken and refusing to move – the “nail house” response to the land expropriation process – is usually considered to be not strictly enforced by the standard procedures of land expropriation (Liu et al., 2012). Other scholars consider that the use of force is common during the process of renovation and demolition in the urban-rural binding region (Sargeson, 2013). Meanwhile, other scholars have introduced the land expropriation system in different countries from the perspective of the social system and historical culture. However, it seems that none of these has discussed improving the farmers' satisfaction of the current land requisition process. Questions

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concerning the openness of China's expropriation procedures remain unanswered.

China today is undergoing a transition from “food and industrialization” to “land and urbanization” (Zhou, 2007) and, with the rapid development of urbanization, urban construction land has become increasingly in demand. Most scholars agree that satisfying this demand mainly depends on farmland conversion, the gross amount of which is reliably predicted to be more than 3.63 million *ha* when China's urbanization reaching 50% (Tan and Qu, 2015; Han, 2009). However, this is problematic for several reasons, mostly due to China's huge population size, need for control and political orientation. First, is the need for food security, as farmland is necessary for feeding the population. Second, is the need to control any potential dramatic movement of the people, as large numbers relocating to the cities, for example, are bound to place an intolerable stress on the cities' social services. Third, is the need to satisfy the socialist collective goal in preference to individual ownership. Together with China's household registration (*hukou*) system, its land ownership system provides the necessary means for doing this, by which the state owns all urban land while the ‘village collective’ owns all rural land subject to restrictions on land use and transfer. These restrictions both prohibit the land being sold to anyone else or used for anything other than agriculture. The result of this is that the only way rural land can be converted to urban construction land is by state expropriation.

Unlike its western counterpart of compulsory purchase, China law forbids land expropriation without the consent of the owner. Such consent is not always easy to obtain, as the dual urban-rural land system has been in existence for a long time and many farmers are reluctant to give up their land due to their natural feelings for the land and love of the rural life. A crucial issue also concerns the level of compensation provided, which obviously needs to be adequate to satisfy the social security concerns of land-less farmers (Qian et al., 2007; Han, 2009). Consequently, studying the willingness of farmers to accept the expropriation of their land, and the associated factors involved, is especially pressing and significant in China's current period of social transformation.

The remainder of this paper is divided into five sections. The next section provides some background of the history of the expropriation process in China and its use and misuse in practice. This is followed by a brief overview of the willingness of China's farmers to succumb to the expropriation of their land, an introduction of an intellectual decision model based on the Institutional Analysis and Development framework (IAD), and the development of two hypotheses. In the fourth section, a description and illustration is provided of the sampling and data collection as well as the construction of a multiple structure model. The fifth section describes an empirical analysis of the farmers' willingness for land expropriation within the IAD framework, while the final section summarizes the article and discusses the policy implications of the empirical findings – providing suggestions and references to the ways and means of safeguarding farmers' property rights and harmonious urban and rural development.

## 2. Literature review and theoretical framework

### 2.1. Land expropriation and compensation practice

Most scholars agree that China's urbanization and industrialization mainly depend on farmland conversion to secure land for new construction. In doing this, early plans were for an increasing emphasis on the market mechanism for the supply of incremental construction land, along with laws and regulations for farmland expropriation and related compensation (Wang, 2002). The earliest records relating to occidental land expropriation laws date back to Roman times, with the basic doctrine for contemporary thinking embodied in 17th century “natural law” advocate Hugo Grotius' “The Lord's access to private land must be for the public purpose” – subject to appropriate compensation

(Grotius, 2010; Chen, 2001). The state's right to arrogate land on these terms can be found in France's 1789 *Declaration of Human Rights*, for instance. Similarly, unless compensation was expressly excluded, the United Kingdom Parliament cannot be presumed to intend to deprive private ownership of land without compensation. In Germany also, the 1848 Frankfurt draft Constitution and expansion contains classic expropriation/compensation conditions, later extended by the Weimar Constitution. Both emphasize the principles of public interest and the need for compensation, and expand the compensation criteria and categories. As highlighted by Epton, the law of expropriation and compensation are as “lips and teeth” (*Junktimklausel*) (Wang, 1998).

China follows the same principal, with its laws allowing the government to expropriate rural land only in order to obtain some public advantage. However, the process is based on the laws and regulations of farmland expropriation and related compensation devised prior to the advent of the country's so-called socialist market economy (Wang, 2002). New China's legal system of “land acquisition” started to emerge on 12 December 1949, shortly after the establishment of the People's Republic, as *The Interim Measures for Handling No-Owner Land* by the Shanghai Municipal People's government. Official documents at the national level occurred on 16 September the following year in the 4th article of *Some Interpretations of Approaches about Retained the Railway Land* issued by the Administration Council of the Central People's Government. This became more generalized on 21 November 1953, when the same Council issued its *Suburban Land Reforms Ordinance*, the first dedicated official administrative regulations being “*Some Measures of Land Expropriation for State-Owned Construction Land*”, to be followed shortly on 5 December by the central government's adoption of the *Law of the Government Administration Council Issued about Land Expropriation Approaches for National Building*. On 20 September the following year, the 13th article of the *People's Republic of China Constitution* required that *State where the Public Interest Requires, in Accordance with the Conditions Prescribed by Law, for Urban and Rural Land and other Productive Assets to Purchase, Expropriation or Nationalization*”. Finally, in May 1982, the state council released the *National Building Regulations Concerning Land Requisition*, which explicitly referred to issues of the land expropriation system.

Today's compensation standard is based on the 1998 revision of the real estate law on the land management provisions of the 47th article, where farmland expropriation includes compensation for the land, resettlement, ground attachments and green crops. This prescribes that the compensation fees should be equal to 6–10 times the average production value for agricultural use over the previous 3 years and that the total compensation for land expropriation and resettlement should not exceed 30 times the average production value over the same period.

Land acquisition problems have also caused widespread concern in academic circles, with the amount of land compensation determined in this way being much less than its market value (e.g. Chen and Zhang, 2007; Guo and Gao, 2014; Wang and Ling, 2013). In addition, although residents have the right to resist having their land taken and can refuse to move, or “nail house”, this is usually not strictly enforced (Liu et al., 2012) and execution by force is not uncommon during the process of renovation and demolition around urban-rural binding regions for example (Sargeson, 2013). Although China's laws allow the government to expropriate rural land only in order to obtain some public advantage, local governments frequently apply their planning and expropriate rights in pursuance of their construction land quota, boosting regional urbanization and industrialization. As a result, a great amount of rural collective-owned construction land and even cultivated land is converted in this way.

This has been especially intense since the constraints of the 1994 tax-sharing system reform, entitling the central government better access to local government tax revenue while leaving local fiscal expenditure responsibilities unchanged. Central government demands, greed and lack of regulation fully encourages local governments in the ‘wanton violation of farmers' land property rights (Peng, 2015) by

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