

**“The Tragedy of the Commons”?
Urban Land Development in China under Marketization and Globalization**

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Abstract

China's massive and sometimes wasteful land development has been widely attributed to the lack of a clear definition and effective protection of property rights. This paper critically interrogates the conventional theory of neo-liberal economics against the actual practices of land property rights and land development in transitional China. Contrary to conventional theoretical expectation, land property rights in both urban and rural China have seldom been pre-given from top down and have instead been initiated, negotiated, and produced from bottom up. Land property rights have operated not so much as a bundle of rights with standardized and uniform legal assignments but more as a diverse set of local practices adaptable to various regional conditions. Chinese municipal and township governments have claimed and produced their land property rights politically and administratively in response to changes in the political economy. Chinese farmers have shown an unexpected preference over an equal access to land as the main source of subsistence rather than tenure security. Land property rights and land development are better seen as social constructions that can never function in isolation of the political, cultural, and social conditions on which they are practiced, negotiated, and contested. The relationship between property rights definition and land development remains contingent upon the political, cultural, and social relations that characterize the economy and society at a particular time and space.

Keywords: Land Management, Land Use Policy, Land Property Rights, Neo-liberalism, Political Economy, Urbanization, China, Local Government, Economics

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“The Tragedy of the Commons”?

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“The land issue is very complicated and the land policy for China won’t be a one-size-fits-all....the policy should fit the specific situation in a certain place.”

— Xu Xiaoqing¹

1. Introduction

With a distinct political system and a land and people unparalleled on earth, social and political developments in contemporary China have always been full of myths, puzzles, and surprises to Western scholars, even to experienced China watchers. An interesting case in point has been a mis-match between popular international expectation made on the basis of normal logical deduction and the actual practices in China concerning the free market circulation of rural and agricultural land. On September 30, 2008—ten days prior to the convention of the Third Plenum of the Seventeenth Central Committee of the Communist Party of China held in Beijing—Hu Jintao, Secretary General of the Party and President of the nation, made a well-publicized visit to Xiaogang village in Anhui province—origin of the bold rejection of the Maoist-styled land collectivization in 1978 and symbol of China’s rural economic reforms.² During the visit, Hu reportedly assured the villagers who once risked their lives to pioneer rural land reforms that the tenure of their contracted rural land would “be kept stable and unchanged for a long time” and that “they would be allowed to transfer the land contracting and operating rights in various ways” if they so wish.³

Hu’s visit has been widely reported in the Western media and taken as a signal for another round of land revolution (Ma and Cai 2008; Wong 2008). His remark has sparked many speculations among scholars and China watchers that the Party-state would allow peasants to engage in the open trade, purchase and sale of land-use contracts.⁴ It was also expected that the Party would

¹ Deputy Chief, Department of Agriculture, Center of Development and Research, State Council. Quoted in *The New York Times*, October 16, 2008, p. A14.

² On November 24, 1978, 18 farm households in Xiaogang village, Fengyang county, Anhui province, pressed down their fingerprints on a secrete lease to divide communal land for the use of individual farm households and set the precedence of household responsibility system that was subsequently sanctioned by the reformed regime.

³ Hu reportedly told the villagers in Xiaogang: “Not only will the current land contract relationship be kept stable and unchanged for a long time, greater and protected land contracting and operating rights will be given to the peasants. Furthermore, if the peasants wish to, they will be allowed to transfer the land contracting and operating rights in various ways and develop management of land on an appropriate scale.” Quoted in *The New York Times*, October 11, 2008, p. A1.

⁴ Existing Chinese laws allow for subcontracting or circulation of farmland within the rural collective sector for agricultural production, but it cannot be sold. Farmland can also be subcontracted or leased out to non-members of the collective or to another collective unit if at least two-thirds of the villagers agree. See China (1998, Article 15); China (2002, Article 32); and China (2007, Article 128). However, the law clearly stipulated that “[T]he land use rights of collectively owned land by rural residents must not be granted or assigned to another party or leased out for non-agricultural construction” and that any user wishing to use rural land “must apply to use state-owned land in accordance with the law.” See China (1998, Articles 43 and 63). In other words, rural land is not allowed for free market circulation unless the land has been transformed from collectively owned land into state-owned land through proper state expropriation and approval. This blockage is obviously set up to prevent an uncontrolled conversion of land from agriculture to urban and commercial development. There is also the fear that farmers may be tempted

extend the rural land contracts, which are due to expire in 2028, for another 70 years or even indefinitely.⁵ Many analysts further reckoned that Hu would choose the party plenum held at this special historical juncture to announce another round of rural land reforms so that he would be seen in the public eye as on par with the late Deng Xiaoping who sanctioned the household responsibility system 30 years ago (Wong 2008).

To the surprise and disappointment of scholars and analysts, the communique of the four-day plenum, released in the evening of Sunday 12 October, made no mention of any change in land policies as widely speculated in the Western media. Instead, the party only set a target to double the per capita disposable income of rural residents by 2020 from 2008 and vaguely pledged to “set up a strict and normative land management system.” This shortfall in the marketization of rural land has been explained by some analysts as a result of possible strong party opposition to Hu’s proposal and by others who maintained that policy changes could be made only after necessary pro forma approval has been obtained from the National People’s Congress to be assembled in March 2009.⁶ Whatever reason it may be, the surprising silence of the party leadership to further marketize and even privatize rural land has testified the complexity and sensitivity of the land issue that goes beyond what can be comprehended and speculated on the basis of normal economic reasoning. It has provided another real case to illustrate how futile it can be to see China’s land using a Western neo-liberal economic telescope focusing so much on the essential delineation of private property rights and the overarching interests of free market forces. There exist important social and political conditions that simply cannot be overlooked if the riddles of China’s land use and land management are to be solved—a point that this paper will make.⁷

into some unwise one-off deals, either selling their land to commercial developers or using it as collateral for bank loans and eventually losing the land to a small number of rich people or to the banks. Chinese laws prohibited using collectively owned cultivated land and peasants’ housing sites as collateral for bank loans. See China (2007, Article 184).

⁵ In the early 1980s, rural land was contracted to farm households initially for 3 to 5 years subject to renewal. This raised the logical concerns over tenure security and its impact on short-term investment in the land. A 1984 policy extended the term of the land contract for at least 15 years. In November 1993, the Party further extended the land tenure to 30 years after the original 15 year contract expired. This 30-year land tenure was then confirmed in the Land Management Law enacted in 1998 (Article 14); Rural Land Contracting Law enacted in 2002 (Article 20); and recently in the Real Property Law enacted in 2007 (Article 126). The 30-year land contract will expire in 2028.

⁶ See Wong, Edward (2008) “China announces land policy aimed at promoting income growth in countryside.” *The New York Times*, October 12, 2008, p. A6; Wong, Edward (2008) “Hints of discord on land reform in China.” *The New York Times*, October 16, 2008, p. A14; Ma, Josephine (2008) “Bid to double rural incomes by 2020.” *South China Morning Post*, October 13, 2008, p. A7; Yardley, Jim (2008) “China unveils land reform after a week of intrigue.” *International Herald Tribune*, October 20, 2008, p. 1; Ma, Josephine (2008) “Farmers to get land leases past 30 years.” *South China Morning Post*, October 23, 2008. At the recent Central Economic Work Conference held in Beijing 8-10 December 2008, the Party called for a “complete and accurate interpretation of the decisions made at the Third Plenum” and re-confirmed a “three no” principles concerning rural land use, namely no change to the collective ownership, no change to the purpose of land use, and no harm to farmers’ contracting and operating rights to the rural land. *Nanfang Ribao (Southern Daily)*, 11 December 2008, p. 3.

⁷ In contrast to the neoliberal economic reasoning that privatization and increased marketization of rural land will lead to long-term investment in land and greater efficiency in land use, important social and political considerations of the party leadership to tackle the land problem included the national interests in food security. China currently has 121.8 million hectares of cultivated land. The central government insisted on keeping at least 120 million hectares, or 297 million acres, of farmland as the minimum deemed necessary to feed the world’s most populous nation. There were also concerns that weakening the existing system of collective village ownership could deprive peasants of the security of having a piece of land and possibly lead to millions of landless farmers.

In recent years, phenomenal development of land in urban and rural China as a consequence of deepened market reforms and increased globalization has been the subject of extensive documentation and competing interpretations. Influenced by the wisdom of neo-classic economics and the popular ideology of neo-liberalism, international scholarly attention has immediately been focused on the Chinese definition of property rights and its impacts on the use and development of land. It did not take long before the Chinese property rights assignment has been found to be incredibly ambiguous for both urban and rural land (World Bank 1993; Zhu 2002; Hsing 2006; Ho 2001; Cai 2003). Building on the ideological and methodological strength of orthodox land economics and neo-liberalism, the prevailing theory is to see the Chinese ambiguous property rights assignment as the root cause of the many land-related problems that have plagued the town and country of a developing China—inefficient and wasteful land use, excessive conversion and development, competition and disputes over access to the land. The logic is self-evident: unclear definition of property rights gives no incentive for the efficient use of the land and leads to competition for and over-exploitation of the land under open-access. In this perspective, an unambiguous assignment of property rights best ensured by private ownership is the precondition not only for efficient use of the land resources but also for rational and sustainable economic development.

The neo-liberal interpretation of China's land development process has not been uncritically accepted by all, however. It has been pointed out that, although there was no “shock therapy/big bang” to privatize land property in town and country, China has managed to achieve a sustained economic growth with minimum social and political disruptions. In the rural economy where secure land tenure and preferably private land property rights were theoretically believed to be essential to long term investment in and efficient use of the land, the perceived insecurity of the land lease signed between the rural collective and individual farm households did not appear to have any negative effect on the efficiency of land use and the growth of productivity. More striking has been the consistent result of many surveys that shows farmer's preference in land re-adjustments over long-term lease (Kung and Liu 1997; Prosterman et al. 1998; Hanstad and Schwarzwald 1999; Ho 2005). In this view, private ownership is not necessarily a precondition for economic development. Ambiguity in the definition of land property rights does not hinder the efficient use of land and improvement of productivity. On the contrary, it is a necessary compromise desirable in the Chinese case because it allows the state to enjoy the needed space and flexibility to respond to any political, economic, and social problems that may arise on a novel journey of reforms with risks and uncertainty.⁸ Whereas ambiguous delineation of land property rights is believed to be the root cause of inefficient land use, uncontrolled land development, and widespread social conflicts in the first perspective, it is seen here as a necessary condition for the post-Mao regime to exercise its power over land development and reconcile competing interests in China's precious land among all actors so that economic viability, social stability, and environmental sustainability could be well preserved. Different interpretations have also led to different appraisal of the Chinese practice. To the students of neo-classic economics and neo-liberalism, incomplete reform of land ownership remains a major hurdle on the path toward efficient, rational, and sustainable economic development. It simply

⁸ Peter Ho, for instance, argued that the institutional ambiguity in the definition of rural land is a “deliberate” effort of the reformed leadership to create leeway for reacting to uncertain societal developments. To Ho, “this ‘deliberate institutional ambiguity’ makes the system tick.” “To avoid an escalation of land disputes between the various levels of the rural collective, the law maintains a deliberate vague definition of collective ownership.” See Ho (2001, p. 420).

delays the structural crisis of the socialist economy undergoing market transition. To those who endorse the theory of gradualism/evolution, the Chinese experience has set a workable model for other transitional socialist economies to emulate.⁹

The ongoing debate over the peculiar Chinese practice of land use and land management has raised a number of significant theoretical questions. Is the Chinese ambiguous definition of land property rights the root-cause of inefficient land use and wasteful land development as described in the notion of “the tragedy of the commons,” or, is it a necessary and desirable element of gradualism that has enabled the Chinese economy to achieve sustained growth without suffering from the pains of market chaos and social turmoil unimaginable to a large land and people?¹⁰ What is the role played by property rights in the process of economic growth and land development in China? How do land property rights actually function in this peculiar economy and society undergoing transition? Is the delineation of property rights a pre-given condition for economic growth and land development? Are land property rights something to be defined and protected from top down and then upheld in a uniform and consistent manner at all time and across space? What is the relationship, if any, between property rights assignment and investment behavior in the use and development of land in rural and urban China? Why has the Chinese Party-state insisted on holding land under its firm control even after a de facto privatization of capital and labor? What are the social and political underpinnings of the Chinese practices of land property rights? Finally, how do we make sense of the phenomenal development of land in urban and rural China in relation to both the existing social conditions and changes in the political economy? What are the social and political origins of the massive and at time wasteful development of land undergoing in China? These are some of the questions that have important bearings not only for theoretical enquiry but also for policy formation to deal with the development of land in one of the largest developing countries on earth. Admittedly, these issues involve a broad scope that cannot possibly be covered in one single study.

This study attempts to engage in the ongoing debate and enquiry identified above through a critical evaluation of the key theoretical assumptions that underlined the notion of the tragedy of the commons against the actual practices of land property rights and land development in China. The grand hypothesis made and tested in this study is that land property rights and land development are not independent legal and economic phenomena and are, instead, complex social constructions that’s functioning and interaction can be understood only when they are situated within a particular political, social, and geographical context in which they are the integral part. The information used in this study is derived from both a documentary research of Chinese laws and regulations concerning land property rights and land development and my own field investigations undertaken in Jiangsu and Guangdong during 1996–2006. The remainder of this paper is organized in three sections. It starts with an identification of prevailing interpretations of the peculiar Chinese practices of massive land development under ambiguous definition of land property rights in both town and countryside. This is followed by a critical evaluation that compares and contrasts key theoretical assumptions with actual practices in urban and rural China. The paper concludes with a summary of the results of the study and a discussion of their implications for further theoretical enquiry and policy formation.

⁹ For an earlier critical review, see Walder (1995, pp. 963-979).

¹⁰ For the notion of the “tragedy of the commons,” see Hardin (1968, pp. 1243-48).

2. Interpreting China's Land Development: The "Tragedy of the Commons"?

Until recently, scholarly attempts to understand the growth and structural change of the Chinese economy had been focused on the increased mobility of capital and labor as a consequence of market reforms and globalization (Lardy 2002; He 2010; Solinger 1999; Fan 2008). It was not until after the 1990s that the massive development of land in rural and urban China has become so striking and alarming to attract the serious attention of both researchers and policy makers. A burgeoning body of literature has been generated to document and understand the pattern and processes of China's land development. Important effort has been made to address such issues as the loss of China's precious cultivated land and its implications for food security, farmers' different reaction to tenure security for the land they are contracted under the household production responsibility system, the meanings of state and collective ownership of land, commodification of urban land use, marketization of the housing sector, and dramatic and sometimes uncontrolled expansion of urban construction land often at the expense of agriculture and the peasantry (Brown 1995; Smil 1999; Kung and Liu 1997; Ho 2001; Guo 2001; Cai 2003; Ho and Lin 2004a; 2004b; Ho 2005; CASS 1992; World Bank 1993; Zhu 1999; Wang and Murie 1999; Wu 1996; Yeh and Wu 1996; Cartier 2001; Xie et al. 2002; Zhu 2002 and 2005; McGee et al. 2007; Wu et al. 2007; Lin 2009; Hsing 2010).¹¹ Among the many kinds of land use change and land development, the conversion of land from the agricultural sector into non-agricultural and commercial uses has attracted most of the attention from scholars and policy makers for obviously reasons. The central question essentially concerns with why massive development of land has taken place and how the conversion of land from the agricultural to non-agricultural sectors can be understood.

To the majority of scholars and the general public, land development is most commonly understood as essentially an economic phenomenon that involves developers who seek to make a profit. It is thus not surprising that, to make sense of the recent massive land development observed in China, attempts have been made to draw insights from the established theory of land economics. A critical evaluation of the Chinese practice with reference to the theory of land economics has led many to identify a noticeable ambiguity in the Chinese definition of property rights for both urban and rural land. It is widely believed that the ambiguous definition of land property rights has been responsible for China's massive and inefficient land use and land development. Reasoning along the line of logical thinking in urban land economics, a number of researchers have observed that massive land development in many Chinese cities occurred after the decentralization of economic property rights over urban land from the central state to municipal governments and state units (Wong and Zhao 1999; Zhu 2002). Although decentralization of land use rights has provided necessary incentives for land users to use land in an efficient and profitable manner, it has not clearly delineated the property rights over urban land among the many different kinds of actors involved. As a consequence, property rights over urban land have become "a contested sphere" among the central state, local governments, developers and state units (*danwei*) (Zhu 2002). Theoretically, ambiguous property rights

¹¹ Among all of the studies on the loss of farmland in China and its possible implications, the most influential and controversial one has been the work of Lester Brown (1995), *Who will feed China? Wake-up call for a small planet* New York: Norton, in which Brown gave a projection that China would not be able to feed itself by 2030 if the current trend of farmland loss continued, and if China increased its import of food grain there would be severe consequences on the global food market. For more realistic studies of changes in agricultural land, see Smil (1999, pp. 425-429) and Lin and Ho (2003, pp. 87-107).

definition will leave valued assets in the public domain for competitive access and inefficient land development. Without a clear delineation of land property rights with exclusivity and transferability, the desire to capture land assets in the open domain and to transform them into secure assets has become a powerful force driving massive and uncontrolled land development in many Chinese cities. This ambiguous delineation of land property rights is therefore identified as the root cause for inefficient allocation and irrational (over)development of urban land.

A similar view is held by many researchers who are interested in the development and conversion of China's rural land. It has been widely observed that the Chinese definition of the property rights over rural land is incredibly ambiguous. In both the Constitution and the Land Management Law, the property rights over rural land are accorded to the "rural collective" which legally means the villagers' committee (*cunmin weiyuanhui*), the village economic cooperative (*cun jingji hezuoshe*), or the township collective economic entity (*xiang jiti jingji zuzhi*) (China 1998; 2004). However, careful analyses of the exact meanings and actual operation of Chinese collective ownership have suggested that it is essentially "fictitious," with state and Party exercising real control over the management of "collective" assets including land (Putterman 1995; Cai 2003; Hsing 2006a). For the use of agricultural land, the introduction of the household production responsibility system only allows farmers to have the right to gain revenue from farming. Their right to choose how land would be farmed is still confined by de facto production planning and their output still has to be sold to state agencies. Control over the allocation of land was held by village government and farmers' right to transfer land or to capitalize its scarcity value remain restricted (Putterman 1995, 1050). For the use of nonagricultural land and the conversion of land from agricultural to non-agricultural use, it has been noticed that these issues are under the control of local officials and therefore "it makes more sense to think of 'rural collective property' as rural local government property" (Putterman 1995, 1053). As Louis Putterman has pointed out, "reform has increased the power of managers, not that of the nominal owners" as far as rural land property rights are concerned (Putterman 1995, 1053). Without a clear delineation and effective protection of farmers' property rights over rural land, it is not surprising that farmland has been subject to abuse and unfair conversion for development purposes. Because collective ownership works in reality as local cadres ownership, many township and village cadres have (ab)used their power in the control of land use and land conversion to pursue their personal interests at the expense of the collective and the powerless individual peasants. This has given rise to not only uncontrolled and under-compensated land conversion out of agriculture to commercial development but also widespread and frequent social conflicts (Cai 2003, 672). In other words, the fundamental factor responsible for excessive rural land conversion and soaring social conflicts is believed to be the lack of an unambiguous delineation and effective protection of farmers' individual property rights over rural land.

Clearly, the prevailing theory of neo-liberal economics believes in a causal relationship between clarity in the definition of property rights and efficient land use, long term investment behavior, and social stability. In this theoretical formulation, definition of land property rights is seen as a pre-given condition for rational land development and sustained economic growth. The emphasis is placed on the legal clarity, uniformity, and inviolability of land property rights delineation from the central authority in a top down fashion. These theoretical propositions need to be carefully evaluated against the Chinese reality in order to better understand the nature and dynamics of phenomenal land development taking place in China under transition.

2.1 Practicing Land Property Rights and Land Development in Urban and Rural China: Theory and Reality

When evaluated closely, the popular notion of “the tragedy of the commons” that sees ambiguity in the definition of land property rights as the root cause of China’s inefficient and wasteful land development has been based on several theoretical assumptions, including a) clarity in property rights definition functions as the prerequisite for efficient land use and rational land development; b) definition of property rights is made in a formal and legal manner from the top and then imposed upon localities and individuals throughout the country; c) property rights definition carries with it necessary uniformity and consistency in the interests of fairness; and d) there exists causal relationships between clarity in the definition of property rights and efficient land use and rational economic development.

It should be noted, however, that the notion of “the tragedy of the commons” was originally intended to explain land use and land development in the situation of an industrial and market economy where the rule of the law has been developed and forces of market competition fully-fledged. In contrast, the actual practices of land use and land development in contemporary China have demonstrated some important social and political conditions distinct from what were normally assumed in the notion of “the tragedy of the commons.” The Chinese influential agrarian tradition has cast such a long and deep shadow over the minds of peasants and the state to pursue not just land use efficiency but also equity in the entitlement to land as a basic source of living. A large territory with great geographical variations both economically and culturally has made it possible and feasible for the definition and practices of land property rights to be initiated informally by localities from bottom-up rather than assigned solely by the lawful state in a top-down fashion. Finally, a transitional economy with a peculiar dualistic structure (plan and market, state and collective, urban and rural) has provided an institutional environment within which land property rights are constantly tested, negotiated, and (re)formulated at different points in time and among different places. In short, the social and political conditions that characterized contemporary China have given rise to the practices of land property rights, land use, and land development that do not conform to normal theoretical expectation. This is not to defend the peculiar and chaotic Chinese case against general accepted wisdom concerning privatization as an instrument to improved economic efficiency. Nevertheless, the Chinese case does raise questions concerning whether privatization is the only instrument to improved efficiency and whether the described causal relationship between privatization and improved efficiency can hold universally regardless of political and social conditions.

2.2 Property rights as a pre-given condition?

In the existing interpretation of China’s land development, the commonly held view is to see land property rights as something given. To evaluate this widely held assumption, it is useful to first of all analyze what property rights actually mean. In the conventional economic and legal literature, property rights are understood as “a bundle of rights that an agent is empowered to exercise over an asset or piece of property” (Putterman 1995, 1049; Demsetz 1967; Furubotn and Pejovich 1972; Dale 1997). This bundle of rights includes the right to use an asset, capture benefits from it, change its form and substance, and transfer all or some of these rights to another agent at a mutually agreed price (Pejovich 1990, 27–28). In a similar manner, property rights in

the Chinese civil law are defined as “the rights of an owner, according to the law, to possess, use, reap benefit from, and dispose of his own property” (China 1986, Article 71). Property rights thus defined are therefore something that can be clearly delineated in a legal manner and, once accepted, imposed upon all as a condition to enable a smooth operation of the economy and society. However, the actual functioning of property rights in reality has turned out to be more complicated than what is assumed in theory.

In the case of China, land property rights have always been subject to contestation, negotiation, and adjustments depending upon changes in political, economic, and geographic conditions. Take the case of rural land as an example. When the legal definition of property rights is applied to rural land, the property rights that rural collective and individual peasants have over rural land are very limited. The collective only has the rights to possess, use, and benefit from the land property, but it does not have the right to dispose of the land. The property rights of individual peasants are even more limited: they only have the rights to use and benefit from the land. In other words, both the collective and individual peasants do not have the rights to dispose of (e.g. transfer) the rural land. The 1998 Land Management Law clearly stipulates that “The land use rights of collectively owned land by rural residents must not be granted or assigned to another party or leased out for non-agricultural construction” (Article 63) and that “[T]he State may expropriate collectively-owned land in accordance with the law if it is in the public interest” (Article 2). Because the state is the only one who has the rights to dispose of the land, any rural land to be transferred into the private sector must first of all have the land undergone state expropriation so that its ownership be transferred from the collective to the state who will then convey the rights to use the land to the private sector. In the process, the private sector as new land user will have to pay the state a lump sum land conveyance fee in addition to compensation fees to the collective and other stipulated administrative fees.

In recent years, China has launched a campaign to “grasp the large and let go of the small” (*zhua da fang xiao*) (Ho et al. 2003). Many of the township and village enterprises (TVEs) (*xiang zhen qiye*) have been asked to transform themselves from collective entities to share-holding companies that are essentially privately-owned businesses. In accordance with the Land Management Law, these TVEs were asked to have their land undertaken a state expropriation and transferred from collective ownership into state ownership first and then private (share-holding) ownership. In this process, TVEs will have to pay a large lump sum conveyance fee to the state in accordance with the law. Many of the managers and peasants working in the TVEs were furious. “This is our land!” they said, “Why do we have to pay for using the land we have owned for generations?”¹² For one thing, they cannot understand why they have to pay a fee to the state as a distant owner for using the rural land that they are supposed to be the collective owner and they have been using for generations. For another, many of the TVEs are on the verge of bankruptcy and are unable to afford to pay such a large lump sum conveyance fee in any way. However, these TVEs have been informed of the requirement in accordance with the law that concerns land property rights. Eventually, a local solution has come up from below to get out of this legal impasse. The rural collectives (villagers’ committees and township governments) would lease out (*zulin*) the land to TVEs. In return, TVEs would only pay a small rent on an annual basis rather than a large lump sum conveyance fee beyond their affordability. Here, land

¹² Interview Notes, Nanjing, Jiangsu, 17 October 2000.

property rights are clearly not given. Rather, they are negotiated, constructed and produced out of a special context of a socialist collective economy undergoing transition.

Equally important is the social production of land property rights in urban China. In the Chinese Constitution and the Land Management Law, the ownership rights over urban land are unambiguously delineated: “land in urban areas is owned by the State. Land in rural and suburban areas, except for that stipulated by laws as being owned by the State, is collectively owned by rural residents...” (China 1998, Article 8; China 2004, Article 10; Lin and Ho 2005). “Urban areas” are further specified to include officially established cities (*shi*), county seats (*xiang zhen*), designated towns (*jianzhi zhen*), and industrial and mining areas (*gongkuang*) (CSLAB 1992a, Article 2). Municipal governments as local representatives of the state are entrusted to claim and exercise the ownership rights over the urban land within their jurisdiction (i.e. the city proper or *shiqu*). They do not have the ownership rights over the land in the suburban areas and suburban counties, however. In recent years, fiscal reforms and central state’s reduced financial commitment to local municipal finance have forced many municipal governments to engage in the capitalization on land. Land sale and land development have become one of the most important sources of primitive capital accumulation to many Chinese cities. As a consequence, the existing urban land within the city proper (*shiqu*) over which the municipal government is entrusted to exercise ownership rights has been quickly used up. The property rights over additional land in the suburban areas must be produced one way or another.

It did not take long before Chinese mayors found out that the needed property rights over land in the suburban areas can be produced politically and administratively through the annexation of suburban counties into urban districts (*shiqu*) under their direct control. In June 2000, Guangzhou incorporated Huadu and Panyu, both of which county-level cities in the suburb of Guangzhou, into its urban districts. Throughout the history of China, county is known as the most basic and stable administrative unit (Ma 2005). It was not until recently that the imperative of local revenue generation and municipal finance has powerfully wiped out many counties from the map of the country. In Guangdong Province, the number of counties and county-level cities has dropped from 77 to 67 during 2000–2005 whereas the number of cities (many of them have incorporated their suburban counties) raised from 45 to 54 for the same period. It should be noted that turning suburban counties or cities into urban districts does not guarantee the municipal government full ownership rights over the newly acquired land as much of the rural land would remain collectively owned. Nevertheless, the municipal government can now extend its overall land utilization plan into the annexed suburban areas by which it can assert the rights to use, benefit from, and dispose of the newly acquired land although it does not fully possess the land.¹³ Here, the property rights over suburban land have been produced politically and administratively. In many cases, it is this forceful and political production of property rights over suburban land, not ambiguous delineation of property rights that has resulted in the resentment, social discontents, conflicts, and violence that have plagued the country in recent years.

¹³ In the 1998 Land Management Law, conversion of land from agriculture into non-agricultural development purposes must comply with the overall land utilization plan. See China (1998, Articles 63 and 64).

2.3 Property rights: Defined from top down or bottom up?

In the conventional wisdom of land economics, the delineation of land property rights is usually understood as a legal matter to be dealt with exclusively by the state in a top-down manner. Only the state has the full ownership rights over all land under its jurisdiction and therefore has the authorities to assign property rights and liabilities to other agents in such a way so that efficiency in land use be ensured and order in market competition well maintained. The formal and legal definition of property rights in China is seemingly no exception. Land property rights have been clearly delineated in the Chinese Constitution (Article 10), the Civil Law (Article 71), the Land Management Law (Article 8), and the recently introduced Real Property Law (Articles 39) (China 1986, Article 71; China 1998, Article 8; China 2004, Article 10; China 2007, Article 39). However, a close analysis of the process through which land property rights are defined, assigned, and exercised would reveal a rather complicated picture. More often than not, definition and assignment of land property rights have started with local initiatives from below which is then followed by official recognition and state sanction from above.

The introduction of the Agricultural Production Responsibility System (APRS) which has created tremendous impacts on the use of rural land since 1978 is a good case in point.¹⁴ This system originated from a poor village in Fengyang County in Anhui Province. Under this system, a farm household is allocated by the collective organization a piece of land for the production of a quota to be contracted after mutual agreement. The land and the production quota are contracted for a fixed term of originally 3 years, then 15 years in 1984, and then 30 years since November 1993. Anything that the farm household has produced above the contracted quota can be retained for self consumption or for sale in the free market. In comparison to the previous agricultural production system in which all production decisions were made by the collectives (i.e. brigade, production team, and commune) whereas individual farm households were given no freedom to determine what to be produced and how much is to be produced, the new system gives individual farm households not only the power to make production decision but also the incentive to use land in the most efficient and profitable manner because the more the output generated from the land the more above-quota revenue can be earned by the farm household.

When analyzed in the legal terms, this system essentially involves a re-definition and re-assignment of the property rights over rural collectively owned land. Under this system, the rights to possess and dispose of the land are still retained by the rural collectives. Farm households are granted with the rights to use and reap benefit from the use of the contracted rural land, which were previously not available to them.¹⁵ Such a re-definition or re-assignment of the property rights over rural land did not come from the central state at the top. Instead, it originated from the grassroots level of the countryside and was eventually sanctioned by the state in December 1978. It was not until 2002 that the central state enacted Rural Land Contracting Law to formally legalize this local innovation concerning the property rights over rural agricultural land.

¹⁴ For detailed documentations of the origin and impacts of the agricultural production responsibility system, see Riskin (1987); Ash (1988); Sincular (1991); and Unger (2002).

¹⁵ It should be noted, however, that this new system does not grant farm households the right to transfer the rights to use agricultural land to other users especially to users outside of the agricultural or collective sector. See China (2002, Articles 17 and 33) and China (1998, Articles 63).

If the redefinition of the property rights over rural land was initiated by Chinese peasants on the grassroots level, then the re-definition and re-assignment of the property rights over urban land were triggered by local municipality in response to the demand of foreign investors. For decades, urban land in China, as a means of production rather than a commodity, had not been allowed for sale or transfer in the market. The Chinese Constitution clearly stipulated that only the state has the full ownership rights over land and “no organization or individual may appropriate, buy, sell, or unlawfully transfer land in other ways” (China 2004, Article 10). This legal definition of land property rights has become a formidable obstacle to attracting foreign investors who have since China’s opening up in 1979 come to China and demanded for a legal assignment of the property rights to use Chinese land. The break-through eventually came from below.

Notwithstanding the Constitutional restriction, entrepreneurial local cadres of the Shenzhen Special Economic Zone took the initiative and sold the property rights to use state owned land to a commercial developer on September 9, 1987.¹⁶ This assignment of land property rights has challenged the restriction stipulated in China’s Constitution. Under the new pragmatic central leadership, the central state has finally made concession to reconcile with the interests of both local governments and foreign investors. On April 12, 1988, the National People’s Congress made an important amendment to Article 10 of the Constitution and added a new clause which reads “The right to use land may be assigned in accordance with the provisions of the law.” This amendment essentially separates land ownership from land use rights. While urban land remains owned by the state, its use rights are now allowed for conveyance and transfer (Yeh and Wu 1996; Ho and Lin 2003; Lin and Ho 2005). Clearly, this redefinition of land property rights in urban China has been triggered by the initiatives taken from below first and then sanctioned by the central state from the top. The experience of land property rights redefinition in urban and rural China has suggested that to see property rights as something to be determined by the state in a top-down fashion will obscure the complex political relations and contesting processes involved.

2.4 Property rights as a uniform and consistent arrangement?

In the theory of neo-classic economics, the purpose of property rights delineation is essentially to set straight the rule of the game for an open and fair market competition. Once exclusivity and transferability are clearly defined, nothing would be left in the public domain for competitive access and inefficient use so that the “tragedy of the commons” could be avoided (Hardin 1968; Zhu 2002). This rule of the game can take effect only after it is applied across the board to all economic sectors in a uniform and consistent manner. For China undergoing market transition, the definition and practicing of land property rights have been far from a uniform and consistent phenomenon. Because the reform of the political economy has taken place in a gradual manner, there exists great space for local initiatives, experiments, and innovations. Although there are national laws and central policies as well as guidelines introduced from the top from time to time, often to sanction and legalize local initiatives, definition and practice of land property rights have varied significantly from time to time and from place to place.

¹⁶ The parcel of land was located in the urban district of Shenzhen and was measured 5321.8 square meters. It was sold by the municipal government of Shenzhen to China’s Aviation Import and Export Company for residential development for a term of 50 years. The conveyance price was negotiated and agreed at RMB200 yuan per square meters.

In the rural areas, the introduction of the Agricultural Production Responsibility System (APRS) since 1978 has been characterized by its evolving nature and great regional variation. Although this arrangement to give individual farm households the rights to use and benefit from rural land has been legitimized by central policy in December 1978 and later on legalized in a number of laws including the Rural Land Contracting Law as well as the Land Management Law, the actual practicing of this system has varied from place to place depending upon the local geographic, economic, and cultural conditions. In many areas of northern China where a local culture of equality and subsistence is strong, a “two-field system (*liang tian zhi*)” is practiced under which some land is distributed as “subsistence field (*kouliang tian*)” and other as “responsibility field (*zeren tian*)” (Prosterman et al. 2000; Lin 2009). Subsistence field is equally distributed to households according to the number of population and is free of the obligation to fulfill state production quota, but responsibility field is distributed according to the number of workers in the household by auction or other methods. In other regions of the country such as the Pearl River Delta and the lower Yangtze Delta where population density is high and farmland would suffer from fragmentation when allocated on a household basis, a system of “scale farming” (*tudi guimo jingying*) is practiced. Under this system, most of the responsibility fields are contracted to a small number of “specialized households” who have better experiences and expertise in farming. The net profits from farming will then be redistributed to members of the village.¹⁷ Finally, in some suburban areas where farmland faces strong competition for use among agricultural, industrial, commercial, and urban development, a “land share-holding system (*tudi gufenzhi*)” is introduced under which farm households return their contracted farmland to the collective (i.e. villages). A shareholding company is then formed with the rural land as the main asset. The re-assembled rural land is then re-classified into different categories for uses including industrial, commercial, housing, agricultural etc. Shares are distributed to households according to population and peasants, as shareholders, receive the profits made off the land. This arrangement has the advantages of making large-scale and specialized farming possible. By binding the interests of all villagers together, this system also enables the rural land to be better protected against any forceful and unfair encroachment by any party outside of the village.¹⁸

A similar regional variation can be found in the practicing of property rights over urban land. Since the reforms of the land system in 1988 when the use rights over urban land were allowed for conveyance and paid-transfer, a dual-track urban land market has emerged. State units (*danwei*) continue to use state-owned urban land either free of charge or paying a small symbolic “compensatory fee for the use of state owned land (*guoyou tudi youchang shiyong fei*).” At the same time, commercial users including foreign investors are allowed to obtain the rights to use state-owned land through conveyance (*churang*) by paying a “conveyance fee.” Municipal governments and its subsidiaries of Land Management Bureau and Taxation Bureau have acted as the representatives of the state to claim ownership rights over the urban land through the approval of land conveyance as well as collection of the fees from land users. If the collection of land conveyance fee from commercial land users is used as an indicator for how property rights over urban land are claimed, then it has varied from region to region depending upon the geographic condition and level of economic development. By law, the conveyance fee should not

¹⁷ For a discussion of scale farming and specialized households in the Pearl River Delta region, see Lin (1997b). For the practice in southern Jiangsu, see Ho (1994). For a critical evaluation, see Prosterman, Hanstad, and Li (1998).

¹⁸ For detailed discussions, see Bledsoe and Prosterman (2000). See also Lin (1997b, pp. 66-67) and Cai (2003, p. 673).

be less than 40 percent of the listed land price (i.e. assessed land value) (*biaoding dijia*) when it is conveyed from existing state-owned urban land to commercial users (CSLAB 1992b, Article 26). The actual practice differs significantly from the legal standard, however. This legal requirement has been enforced in Jiangsu Province.¹⁹ However, in some poor regions of Shandong Province, local governments have set conveyance fee at around 20 percent of the assessed land value, and in some economically backward regions, the fee was waived altogether in order to attract new investment.²⁰ In Guangdong, a single market price is indicated for the land available for conveyance without making any detailed break-down of the price into different fees (i.e. compensation fee, development fee, conveyance fee, registration fee, etc.), so it is subject to arbitrary interpretation whether or not the legal requirement for conveyance fee has been met.²¹

The regional variation demonstrated in the practicing of the property rights over the land in urban and rural China has been inseparable from the transitional nature of the Chinese political economy and the inherent variation in the natural environment, population density, level of economic development, and local cultural tradition. It should be noted that many of these deviations from the legal requirement and national norm are not unambiguously illegal. They simply represent necessary adaptation of the national norm to various local conditions. Indeed, it is questionable how a uniform and consistent definition of land property rights can be turned into workable practice in a country with such a great regional variation. Theoretically, the regional variation that characterizes the Chinese practice of land property rights challenges the perception of land property rights as some standardized and uniform arrangements essential to the maintenance of order for land use and market competition. In the case of China, land property rights cannot be defined, claimed, and practiced out of the regional contexts within which they are deeply embedded.

2.5 Causal relationship between property rights definition, land development, and social conflicts?

The last fundamental assumption underlying the existing theoretical explanation for inefficient land use and uncontrolled land development in contemporary China concerns a cause-effect relationship between clarity in the definition of land property rights and land development. The logic is seemingly straightforward: clear definition of land property rights with exclusivity and transferability will offer owners with powerful incentives to use land in the most efficient and profitable fashion whereas ambiguous definition will leave land in the public domain for inefficient use and irrational development. A careful analysis of the Chinese reality would present empirical evidence challenging this theoretical assumption, however.

First of all, definition of land property rights is not an explanandum independent of social, political, and geographic conditions. Ambiguous property rights definition can be desirable at certain time and place as it allows for flexibility, but it can be detrimental in other place and historical moment. Whether or not clear definition of land property rights can lead to efficient land use and land development depends on the political, social, and geographic conditions. Take farmers'

¹⁹ Interview in Nanjing, Jiangsu, 17 October 2000.

²⁰ Interview in Qingzhou, Shandong, 24 May 2001.

²¹ Interview in Nanhai, Guangdong, 19 June 2001.

reaction to long-term tenure security as an example. It has been a widely held belief that secure land tenure is essential for farmers to make long-term commitment and investment in the land they are contracted, and that frequent adjustments in the land lease contracted are detrimental to tenure security because they result in households getting different plots of land and therefore discourage farmers from making long-term plot-specific land augmenting investment. In reality, however, existing studies have presented mixed results that are not entirely consistent with the theoretical expectation (Hanstad and Schwarzwald 1999, 3–6; Kung and Liu 1997, 33–61; Ho 2005, 14). On the one hand, a survey of 1,080 farm households in Fujian and Shaanxi in 1996 showed that 93 percent of the farmers interviewed “responded that they would be willing to make long-term investments in their land if they were given use rights of 50 years or more” (Prosterman et al. 1998, 14). In other words, these farmers would be more willing to make fixed investment in their land if the duration of tenure were longer and more secure. On the other hand, other surveys have also consistently reported that one-half to two-thirds of the interviewed peasants are opposed to a policy to end land adjustment (Kung and Liu 1997, 33–61). Some farmers opposed the end of adjustment because they expected their household size to increase. Others opposed it because they did not want to be burdened with meeting the grain quota if they found off-farm employment. Still others opposed it because they see land adjustment (or access to land) as an insurance in case they were laid off from their off-farm jobs. Of these, the most important reason is probably the worry that an end to land adjustment would close the door to accommodate increase in household size. Clearly, Chinese farmers wanted longer and more secure land tenure, but at the same time they did not want to give up equal distribution of land on the basis of the number of people regardless of productivity. After so many years of practicing socialism, the principle of equality cannot simply be wiped out from peasants’ mind. It is interesting to note that the desire for keeping the option of land adjustment to accommodate demographic change tends to be stronger in those regions where population density is high. It is also interesting to note that farmers’ support for a “no-adjustment” policy increased significantly when they were told that such a policy would be accompanied by other government actions that would lessen the impact of increase in household size (e.g. one final land adjustment prior to the implementation of the no-adjustment policy, the allocation of flexible land, adjustments in taxes, etc.) (Prosterman et al. 1998, 15–16). What then do these mixed results tell us? They show us that clarity in the definition of land property rights and farmers’ reactions to it very much depend upon many historical, demographic, geographic, and political factors. Definition of land property rights must be understood as a compromise derived from these time- and place-specific demographic, political, and economic conditions. It does not exist simply as the independent explanans. More often than not, it exists and operates as the explanandum—it has to be explained rather than being an independent factor for explanation.

The argument that clear delineation of property rights would lead to efficient land use and development is also hinged on the belief that privatization is the only solution to many of the problems currently observed in transitional China. The question of whether or not privatization is essential to efficient economic development in China has already been a controversial one for unsettled debates (Walder 1995; Putterman 1995). Researchers are divided between those who see privatization as essential and indispensable to efficient land use and sustained economic development and others who argued that gradualism can work as a viable alternative to the “shock therapy” of massive privatization. Proponents of privatization contend that China’s record of impressive economic growth in recent years simply delayed the deeply rooted

structural problems and that the Chinese economy could have grown even better if there were massive privatization. Opponents claim that the Chinese record of robust economic growth has nearly no rival in the world and that speculation of the “shock therapy” advocates has no empirical ground. After a careful and critical evaluation of different perspectives, Louis Putterman comes to the conclusion that “in view of the existence of social conditions calling for caution in some aspects of liberalization, and in the absence of more successful growth stories than that of post-1978 China, it is doubtful that a more economically liberal regime could have produced a significantly better overall record of growth, especially if social equity and stability are accorded an weight” (Putterman 1995, 1064). Putterman’s conclusion may not be acceptable to all, but it does raise two significant points useful for the evaluation of the perceived causal relationship between clarity in land property rights definition and efficient land use and development. It casts doubt over the widely held belief in privatization as the necessary and sufficient pre-condition for robust economic growth. It also calls for a contextual understanding of the improved although less than ideal economic development observed in China in recent decades by taking into consideration such important factors as “social conditions” and “social equity and stability.”

For the issue of land development and social conflicts in rural China, the popular explanation has been that ambiguity inherent in collective ownership allows corrupted rural cadres to pursue self-interests at the expense of the collective and individual peasants. Would the abandonment of the ambiguous collective ownership then solve the problems of uncontrolled land conversion and wide spread social conflicts? Would an outright privatization of the collectively owned land effectively eliminate the privilege currently enjoyed and abused by corrupted local cadres? Experience of the former Soviet Union and Eastern European countries has shown a picture more complicated than what is commonly believed. In many cases, former Party officials and local cadres quickly make adaptation to the new institution and transform their political assets into economic assets giving rise to what David Stark has characterized as a transformation “from plan to clan” (Stark 1990; Naughton 1995). The mis-match between theoretical expectation and actual practices clearly underlines the path-dependence and contextual sensitivity of the issue concerning ownership reforms and economic development. In the Chinese context, economic efficiency in land use and development that is supposedly to be gained through privatization is not the only concern to both the state and individual peasants. Other ideological, political, and social considerations such as equal entitlement to land, food security, and political stability have continued to shape the progress made in institutional reforms and land development. Under this situation, clear delineation of property rights through privatization does not appear to be the only viable recipe for efficient land use and development. Empirical studies have suggested that peasants’ interests in efficient land use can also be safeguarded by some innovative arrangements such as the land share-holding system without having to abandon the ambiguous collective (or cadres’) ownership.

Finally, the perceived cause-effect relationship between clarity in the definition of land property rights and the pattern of land use and land development obscures an issue that is deeply rooted in the structural problems inherent in the Chinese political economy undergoing transformation. For the use and development of urban land, the delineation of property rights in terms of owners and ownership has been rather clear. Full rights over urban land reside with the state and these rights are to be claimed by municipal and/or county governments who act as the local agents of the

state.²² This definition of land property rights has not been changed ever since 1956 when the private ownership of urban land was replaced by state ownership. In other words, the definition of land property rights, however ambiguous it may be, cannot adequately account for the problem of inefficient land use and uncontrolled land development observed from China in recent decades.

What has been changed in recent years involved a separation of land ownership from land use rights and an introduction of a land market on which land use rights can be granted and circulated. While this institutional reform has significantly improved the efficiency in land use, it has created a dual-track land market in which free administrative allocation of land co-exists with paid conveyance and transfer of land use rights, and the difference between these two tracks has turned out to be the source of lucrative arbitrage. In the meantime, the broader national political economy has undergone profound structural changes. With a reduced political and financial commitment from the central state, municipal governments are forced to look for all possible channels to mobilize resources and raise capital to finance urban development. It is thus not surprising that the development of land has been quickly identified by municipal governments as one of the most important sources of capitalization. The problem of massive, and sometimes wasteful and excessive, land development currently taking place in China cannot be attributed solely to ambiguous definition of property rights. The problem has to be understood and solved through a deeper and more contextually sensitive analysis of changes in the structure of the Chinese political economy.

3. Conclusion

One of the greatest mysteries that challenged the explanatory power of the social scientists of the twentieth century has probably been the diverse trajectory of social and economic transformation demonstrated by countries in the socialist world. Whereas leaders of the former Soviet Union and other Eastern European countries were confident and determined enough to engineer a large scale privatization and transplant market mechanism into the socialist heart, an uncertain and undetermined post-Mao regime in China has opted for an approach to muddle through or “grope for stones to cross the river” so that market transition could find its own evolving course. The result of the Chinese approach has been a peculiar trajectory of market transition that does not confirm with the conventional expectation of neo-liberalism. It remains premature to judge the efficiency and long-term sustainability of the Chinese practice of market transition. Nevertheless, the existence of diverse paths of social and economic transformation in the socialist world does raise new questions over the perceived notion that a clear definition and effective protection of property rights, guaranteed by privatization, are the pre-condition for efficient and sustained economic development.

²² When the 1988 Land Management Law was enacted, it states that urban land is owned by the state without clear specification of what the state means. This ambiguity was a source of ownership disputes between different levels of government and between different government agencies. The 1998 Land Management Law finally clarifies the meaning of state as a land owner: “the State Council represents the State to exercise ownership rights over state-owned land” (Article 2). Municipal and/or county governments are entrusted with the authorities to claim such ownership rights through the approval of land requisition and conveyance and the collection of the fees including allocation fee and conveyance fee on behalf of the state. See China (1998, Articles 46, 54, and 55).

This paper has argued that the neo-liberal economic interpretation of the Chinese case is oversimplistic and over-deterministic. It overlooks some of the fundamental social and political conditions upon which property rights are produced and land development pursued. In a country with an established tradition to use land as a basic source of subsistence, concern over food and social security not just for some but for everyone in the society has taken a position preceding over many others including utility maximization, market order, and exclusiveness of individual access to land to warrant its long-term efficient use. This is further compounded by a transitional socialist political economy in which the Party-state sets the parameters for the operation of market forces. To the individual peasants, interests in an equal access to the land as their ultimate guarantee of subsistence have overridden other considerations such as tenure security with a fixed land lease that precludes the possibility of re-adjustment to accommodate household demographic changes. To the state, control over land as the basic source of national food security and the last element of socialism has become an imperative that should never be compromised by the neo-liberal prescription of privatization. Geographically, a country with great regional variations in population density, land quality, level of development, and cultural tradition has entailed the practicing of a variety of informal, customary, and communal property assignments that are not legally unambiguous but are locally credible, suitable, and workable. Under these complex social, political, and geographic situations, property rights definition is not always a thing to be given legally from top down. Instead, it has often been produced, negotiated, and contested socially from bottom up. Property rights assignment is not uniform and fixed. Rather, it has always been evolving, changeable, and heterogeneous depending upon various local conditions that are temporally and spatially specific. Contrary to the conventional theoretical expectation, property rights definition in China is not a pre-condition for efficient land use and sustained economic growth but is conditioned by the social and political relations within which both property rights arrangement and change in land use are initiated, tested, modified, and practiced.

Proponents of neo-liberal economics may continue to blame the Chinese state for its harmful heavy-handed distortion of the market and insist on a wholesale privatization of land as the best and eventual solution to the many land-related problems. It remains a topic for debate how much better the situation of economic growth and land development would be had China opted for a privatization once and for all as a means to delineate and protect property rights and ensure rational investment as well as efficient economic development. Available evidence has nonetheless suggested that the practicing of land property rights in China since the reforms has shown its own logic and dynamics contradictory to some of the fundamental assumptions underlying the popular theory of neo-liberal economics. Ambiguous property rights definition of the urban and rural land is only a part of the story, but it has functioned more as the explanandum than the explanans in the case of China.

The notion of the tragedy of the commons appears to be, as it turns out, rather problematic when applied uncritically to China because it rules out the possibility of improved efficiency in land use and land development based upon informal and local property rights definition other than privatization. It is also a notion too superficial because it over-simplifies the complex process of land use and land development as driven by property rights definition only when it is in fact a result of structural changes in the broader political economy. Land development, as an integral part of the economy, is both conditioned by and a condition of the progression and structural

changes of the socialist political economy undergoing profound transformation. Land property rights and land development are both social constructions that can never function in isolation of the political, cultural, and social conditions on which they are initiated, tested, modified, and reformulated. Whether or not there is a cause-effect relationship between clarity in property rights definition and efficiency in land development really depends on the political, cultural, and social relations that characterize the economy and society at a particular time and space.

References

- Ash, R. F. 1988. The evolution of agricultural policy. *China Quarterly* 116: 529–555.
- Bledsoe, D. J., Prosterman, Roy L. 2000. The joint share system in China's Nanhai County. *RDI Reports on Foreign Aid and Development #103*. Seattle: Rural Development Institute.
- Brown, L. 1995. *Who will feed China? Wake-up call for a small planet*. New York: Norton.
- Cai, Y. 2003. Collective ownership or cadres' ownership? The non-agricultural use of farmland in China. *China Quarterly* 175: 662–680.
- Cartier, C. 2001. 'Zone fever,' the arable land, and real estate speculation: China's evolving land use regime and its geographical contradictions. *Journal of Contemporary China* 10(28): 445–469.
- China State Land Administration Bureau (CSLAB). 1992a. Interim regulations of the People's Republic of China on granting and transferring the right to the use of state-owned land in cities and towns. In China State Land Administration Bureau (ed) *Major land administration laws of the People's Republic of China*. Beijing: Foreign Languages Press 51–66, Article 2.
- China State Land Administration Bureau (CSLAB). 1992b. Provisional measures on the administration of allocated land use rights. Promulgated 8 March 1992 as Order No. 1 of the State Land Administration. Article 26. In CHH Asia Pacific (ed.) *China Laws for Foreign Business* 3. North Ryde, Australia: CCH Australia Ltd 18:607–619.
- China. 1986. *General principles of Civil Law of the People's Republic of China*. Adopted 12 April 1986. Beijing: Official Document (in Chinese).
- China. 1998. *Land management law of the People's Republic of China*. Originally adopted 25 June 1986 and revised 29 December 1988 and further revised 29 August 1998. Beijing: Official Document (in Chinese).
- China. 2002. *Rural Land Contract Law*. Adopted 29 August 2002 and implemented 1 March 2003. Beijing: Official Document (in Chinese).
- China. 2004. *The Constitution of the People's Republic of China*. Adopted 4 December 1982; amended 14 April 1988, 29 March 1993, 15 March 1999, 16 March 2004. Beijing: Official Document (in Chinese).
- China. 2007. *Real Property Law of the People's Republic of China*. Adopted 16 March 2007 and implemented 1 October 2007. Beijing: Official Document (in Chinese).
- Chinese Academy of Social Sciences, Institute of Finance and Trade Economics and Institute of Public Administration USA. 1992. *Urban Land Use and Management in China*. Beijing: Economic Science Press.
- Chung, J. H. 1994. Beijing confronting the provinces: the 1994 tax-sharing reform and its implications for central-provincial relations in China. *China Information* 9(2/3): 1–23.
- Dale, P. 1997. Land tenure issues in economic development. *Urban Studies* 34(10): 1621–1633.
- Demsetz, H. 1967. Toward a theory of property rights. *American Economic Review* 57(2): 347–359.

- Fan, C. 2008. *China on the move: migration, the state, and the household*. London: Routledge.
- Furubotn, E. G., Pejovich, S. 1972. Property rights and economic theory: a survey of recent literature. *Journal of Economic Literature* 10(4): 1137–1162.
- Guo, X. L. 2001. Land expropriation and rural conflicts in China. *China Quarterly* 166:422–439.
- Hanstad, T., Schwarzwald, B (eds). 1999. *China's rural land system: legal reform and the rule of law*. Seattle: Rural Development Institute 3–6.
- Hardin, G. 1968. The tragedy of the commons. *Science* 162: 1243–1248.
- He, C. 2006. Regional decentralization and location of foreign direct investment in China. *Post-Communist Economies* 18(1): 33–50.
- Ho, P. 2001. Who owns China's land? Property rights and deliberate institutional ambiguity. *China Quarterly* 166: 394–421.
- Ho, P. 2005. Introduction: the chicken of institutions or the egg of reforms. In Peter Ho (ed.), *Developmental dilemmas: land reform and institutional change in China*. London: Routledge.
- Ho, S. P. S., Lin, G. C. S. 2004a. Converting land to nonagricultural use in China's coastal provinces: Evidence from Jiangsu. *Modern China* 30 (1): 81–112.
- Ho, S. P. S., Lin, G. C. S. 2004b. Non-agricultural land use in Post-reform China. *China Quarterly* 179: 758–781.
- Ho, S. P. S. 1994. *Rural China in transition*. Oxford: Clarendon.
- Ho, S. P. S., Lin, G. C. S. 2003. Emerging land markets in rural and urban China: policies and practices. *China Quarterly* 175: 681–707.
- Ho, S. P. S., Bowles, P., Dong, X. 2003. 'Letting go of the small': an analysis of the privatization of rural enterprises in Jiangsu and Shandong. *Journal of Development Studies* 39(4): 1–26.
- Hsing, Y. 2010. *The great urban transformation: politics of land and property in China*. New York: Oxford University Press.
- Hsing, Y. 2006a. Brokering power and property in China's townships. *Pacific Review* 19(1): 103–124.
- Hsing, Y. 2006b. Land and territorial politics in urban China. *China Quarterly*, 187: 1–18.
- Ingram, G. K. (1998) Patterns of metropolitan development: what have we learned? *Urban Studies* 35: 1019-1035.
- Ingram, G. K. and Hong, Y., Eds. (2007). *Land Policies and Their Outcomes*. Cambridge, MA, Lincoln Institute of Land Policy.
- Kung, J. K., Liu, S. 1997. Farmer's preferences regarding ownership and land tenure in Post-Mao China: Unexpected evidence from eight counties. *China Journal* 38: 33–64.
- Lardy, N. R. 2002. *Integrating China into the global economy*. Washington, D.C.: Brookings Institution Press.
- Lin, G. C. S. 1997a. *Red capitalism in south China: growth and development of the Pearl River Delta*. Vancouver: University of British Columbia Press.

- Lin, G. C. S. 1997b. Transformation of a rural economy in the Zhujiang Delta. *China Quarterly* 149: 56–80.
- Lin, G. C. S. 2007. Reproducing spaces of Chinese urbanization: New city-based and land-centered urban transformation. *Urban Studies* 44(9): 1827–1855.
- Lin, G. C. S. 2009. *Developing China: land, politics, and social conditions*. London: Routledge.
- Lin, G. C. S., Ho, S. P. S. 2003. China's land resources and land-use change: insights from the 1996 land survey. *Land Use Policy* 20(2): 87–107.
- Lin, G. C. S., Ho, S. P. S. 2005. The state, land system, and land development processes in contemporary China. *Annals of the Association of American Geographers* 95(2): 411–436.
- Ma, J., Cai, J. 2008. Plenum grapples with reforms for rural economy. *South China Morning Post*. 10 October 2008. p. A8.
- Ma, J. 2008. Bid to double rural incomes by 2020. *South China Morning Post*. 13 October 2008. p. A7.
- Ma, J. 2008. Farmers to get land leases past 30 years. *South China Morning Post*, 23 October 2008. *Nanfang Ribao (Southern Daily)*. 11 December 2008. p. 3.
- Ma, L. J. C. 2005. Urban administrative restructuring, changing scale relations and local economic development in China. *Political Geography* 24(4): 477–497.
- Man, J. Y., Hong, Y. (Eds.) 2010. *China's Local Public Finance in Transition*. Cambridge, MA: Lincoln Institute of Land Policy.
- McGee, T. G., Lin, G. C. S., Marton, A. M., Wang, M. Y., Wu, J. 2007. *China's urban space: development under market socialism*. London: Routledge.
- Naughton, B. 1995. *Growing out of the plan*. Cambridge: Cambridge University Press.
- Pejovich, S. 1990. *The economics of property rights: towards a theory of comparative systems*. Dordrecht, Netherlands: Kluwer Academic Publishers 27–28.
- Prosterman, R. L., Schwarzwalder, B., Ye, J. 2000. Implementation of 30-Year land use rights for farmers under China's 1998 Land Management Law: an analysis and recommendations based on a 17-province survey. *Rural Development Institute (RDI) Reports on Foreign Aid and Development #105*. Seattle: Rural Development Institute.
- Prosterman, R. L., Hanstad, T., Ping, L. 1998. Large-scale farming in China: an appropriate policy? *Journal of Contemporary Asia* 28(1): 74–102.
- Prosterman, R. L., Hanstad, T., Schwarzwalder, B., Ping, L. 1998. Rural land reform in China and the 1998 Land Management Law. *RDI Reports on Foreign Aid and Development #98*. Seattle: Rural Development Institute, p. 14.
- Putterman, L. 1995. The role of ownership and property rights in China's economic transition. *China Quarterly* 144: 1047–1064.
- Riskin, C. A. 1987. *China's political economy: the quest for development since 1949*. Oxford: Oxford University Press.
- Sincular, T. 1991. China's agricultural policy during the reform period. In Joint Economic Committee of the U.S. Congress (ed). *China's economic dilemma in the 1990s: The*

- problems of reforms, modernization, and interdependence*. Washington, DC: US Government Printing Office 340–364.
- Smil, V. 1999. China's agricultural land. *China Quarterly* 158: 425–429.
- Solinger, D. J. 1999. *Contesting Citizenship in Urban China: Peasant Migrants, the State, and the Logic of the Market*. Berkeley, CA: University of California Press.
- Stark, D. 1990. Privatization in Hungary: from plan to market or from plan to clan? *East European Politics and Societies* 4(3): 351–392.
- Tao, R., Su, F., Liu, M., Cao, G. 2010. Land leasing and local public finance in China's regional development: Evidence from prefectural-level cities. *Urban Studies* 47 (10): 2217–2236.
- Unger, J. 2002. *The transformation of rural China*. London: M.E. Sharpe.
- Walder, A. 1995. China's transitional economy: Interpreting its significance. *China Quarterly* 144: 963–979.
- Wang, Y., Murie, A. 1999. *Housing policy and practice in China*. Basingstoke: Macmillan.
- Wong, E. China announces land policy aimed at promoting income growth in countryside. *The New York Times*. 12 October 2008. p. A6.
- Wong, E. China may let peasants sell rights to farmland. *The New York Times*, 11 October 2008. p. A1.
- Wong, Ed. Hints of discord on land reform in China. *The New York Times*. 16 October 2008. p. A14.
- Wong, K. K., Zhao, X. B. 1999. The influence of bureaucratic behavior on land apportionment in China: the informal process. *Environment and Planning C*. 17: 113–126.
- World Bank .1993. *China: Urban land management in an emerging market economy*. Washington, DC: The World Bank.
- Wu, F., Xu, J., Yeh, A. G. O. 2007. *Urban development in Post-Reform China: State, Market, and Space*. London: Routledge.
- Wu, F. 1996. Changes in the structure of public housing provision in urban China. *Urban Studies* 33: 1601–1627.
- Xie, Q., Parsa, A. R. G., Redding, B. 2002. The emergence of the urban land market in China: evolution, structure, constraints and perspectives. *Urban Studies* 39(8):1375–1398.
- Yardley, J. China unveils land reform after a week of intrigue. *International Herald Tribune*. 20 October 2008. p. 1.
- Yeh, A. G. O., Wu, F. 1996. The new land development process and urban development in Chinese cities. *International Journal of Urban and Regional Research* 20(2): 330–353.
- Zhu, J. 1999. *The transition of China's urban development: from Plan-controlled to Market-led*. Westport: Prager.
- Zhu, J. 2002. Urban development under ambiguous property rights: A case of China's transition economy. *International Journal of Urban and Regional Research* 26(1): 41–57.

Zhu, J. 2005. A transitional institution for the emerging land market in urban China. *Urban Studies* 42(8): 1369–1390.