CULTIVATING CHANGE

China Amends Land Regulations, Giving Farmers a Fairer Deal

By Matt Jenkins

SEVERAL YEARS AGO, villagers in Wukan, China, rose up in protest. Residents of the small port town in the southern province of Guangdong were furious with the leaders of their village, who had condemned a swath of land and sold it to developers in a backroom deal. The villagers received no compensation.

The protests began modestly enough, but ultimately drew as many as 13,000 participants and became increasingly violent as residents and police repeatedly clashed. The showdown left one protester dead while in police custody, saw villagers drive officials out and barricade the town, and drew international media attention. The situation calmed down only after the provincial head of the Communist Party intervened, allowing the villagers to choose new representatives for the village committee in what outside observers heralded as the first transparent, free election in China.

The standoff in Wukan was but one example of the tensions surrounding land use in rapidly urbanizing China, where 500 million people have moved into cities over the past few decades. Social stability has long been a central goal of the Chinese government, and conflicts related to land use and development were proving to be an increasing source of social unrest. In 2013, China's national leadership decided to push for more equitable urbanization policies as part of a broad endeavor to address the social inequalities that have dogged the country during the period of rapid development.

Turning those reforms into reality has taken some time. The Peking University–Lincoln Institute Center for Urban Development and Land Policy (PLC), jointly established by the two institutions, has played an important role in helping lawmakers understand the options for reform. In 2019, after six years of deliberation, the central government approved major amendments to the national land administration law.

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In 2019, the central government approved major amendments to the national land administration law. "It's a landmark change," says Zhi Liu, director of the Peking University–Lincoln Institute Center for Urban Development and Land Policy. "It's a major paradigm shift from chasing value to meeting the needs of the people."

Rapid urbanization in China has seen villages like this one in Nanning, Guangxi Autonomous Region (top), give way to encroaching high-rises. At bottom, migrant workers from a rural township plant trees and sow grass at an urban park built on farmland in Chengdu, Sichuan Province. Credits: Kacper Kowalski/Panos Pictures, Justin Jin/Panos Pictures.

A Growth Machine

Over the past four decades, China's phenomenal growth and transformation have been driven by its cities, particularly along the coast. In 1978, just 18 percent of the population lived in urban areas. Today, 60 percent do, and it is projected that by 2030, 70 percent will. China's cities, which exist at a scale seen in few other places on earth, include the sprawling megalopolises of the Yangtze River Delta, centered on Shanghai and Hangzhou; the area around Beijing; and the Pearl River Delta, centered on Shenzhen, Guangzhou, and Hong Kong.

The trajectory of China's rise can be roughly divided into two phases. The first began in 1978 under the leadership of Deng Xiaoping. Casting off nearly 30 years of international isolation and a centrally controlled socialist economy, Deng opened China to the outside world and encouraged a more market-based economy. Two decades later, in 1999, China joined the World Trade Organization (WTO); the resulting boom in manufacturing drove unprecedented levels of growth and opened a pathway to prosperity.

After joining the WTO, China assiduously courted foreign manufacturers to set up shop. Labor was plentiful, but developable land was a precious commodity. As a result, cities used land as a major factor to attract business.

According to the land administration law, urban land is owned by the government, while rural land is owned by village collectives. But government authorities can use eminent domain to seize land for urban expansion (Liu and Sun 2014). Villagers have little say in the matter and typically receive limited compensation.

Until the recent reforms, the central government allotted an annual quota of developable rural land to every municipality—an administrative unit that includes a central city surrounded by townships and rural areas—for the purpose of urban expansion. That set off an annual scramble by municipal and county authorities to attract development so they could secure their share of the quota (Liu and Liu 2019). For some sub-provincial governments, proceeds from land sales have accounted for 30 to 50 percent

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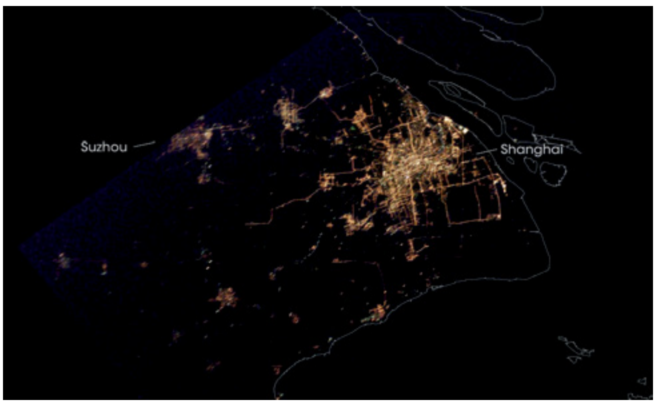

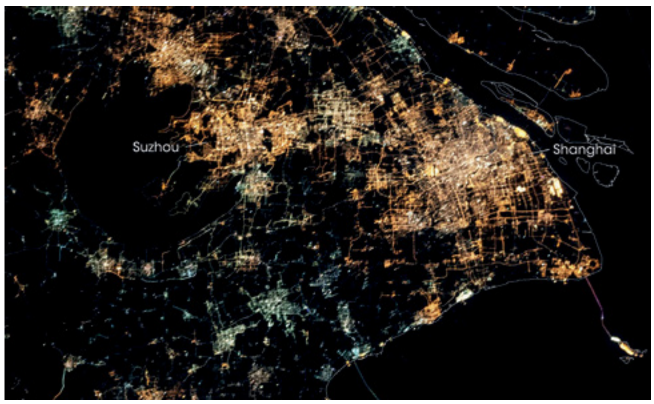

Images from the International Space Station show the expansion of Shanghai between 2003 (left) and 2018 (right). Credits: NASA.

A resident of Wukan, Guangdong Province, holds the deed to family land that was taken for development. Credit: Peter Park/AFP via Getty Images.

of annual fiscal revenue (Ran 2013), most of it spent far from the villages where the land in question is located.

During the post–WTO period, government authorities “exhibited an insatiable appetite for growth and investment,” said Professor Tao Ran, who leads the Center for Economics and Public Governance at Renmin University. Speaking at the University of Southern California’s US–China Institute in 2016, he noted that “in their drive to secure revenues, local governments competed fiercely with each other” for manufacturing capital, business taxes, and land revenue.

From 2004 to 2014, a period now referred to as the golden decade of China’s real estate market, China’s GDP growth averaged 10 percent per year. During the same time, the amount of land earmarked for urban growth across China increased by 19,366 square kilometers (7,477 square miles), a whopping 64 percent. Ninety percent of that was formerly rural land that had been expropriated by the government through eminent domain, bringing in huge amounts of money to local governments (Liu and Sun 2014). During that same decade, revenue from land concessions—contracts between governments and business entities for the right to use or develop land—was more than half of local tax revenues.

Although some rural land is permanently protected as farmland in the name of national food security, urbanization appeared to be an unstoppable force. In some cases, rural villages were literally swallowed up by larger cities, with high-rise buildings taking shape around the existing homes of villagers and migrant workers. In one much-publicized scandal, the vice mayor of Guangzhou, China’s fifth-largest city, was imprisoned for life for accepting bribes from developers and pressuring villagers on the outskirts of the city to give up their land (Lau 2014).

“It was a growth machine,” says Liu, but not everyone profited. “The losers were the farmers.”

Keeping Pace with Growth

Rapid urbanization in the first decade of the 21st century "led to tens of millions of dispossessed farmers left undercompensated," wrote Ran of Renmin University in a Lincoln Institute working paper (Ran 2013). As the development boom continued, he noted, "developing and managing land [became] a major business for local governments in many localities."

When government officials took land, farmers typically received compensation. (The land deal that led to the Wukan protests occurred outside this system, with corrupt village officials profiting instead.) That compensation was usually based on the agricultural value of the land rather than on the market price, which would have been much higher. Even the agricultural value was tied to low-value commodity crops like rice and wheat rather than the higher-value fruits and vegetables that farmers might have been growing.

Farmers whose land had been expropriated had few ways to make a new start, leading to thousands of incidents such as the showdown in Wukan. Land disputes "have emerged as the principal source of state–society conflict in China," wrote Meg Rithmire of the Harvard Business School. "Land conflict accounts for the majority of the hundreds of thousands of 'mass incidents' of protest that engulf rural and periurban China each year as well as the majority of petitions and letters filed by citizens to appeal to higher authorities" (Rithmire 2017).

Outside of protest, farmers have had almost no way to fight back against unfair land deals. With the central government setting the price for land, "farmers could bargain, but only indirectly," says a Beijing economics professor who requested anonymity. "They could petition higher levels of government to intervene on their behalf, or they could hold out as *dingzihu*."

Residents who resorted to the practice of dingzihu—which alludes to a single nail sticking up in the air—combined protest with bargaining. As they held out in the face of development, their houses were left perched, Dr. Seuss-like, atop towers of dirt as construction crews excavated everything around them. There they would remain, sometimes for years, until they were

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A "nail house"—so called because of the way it sticks up after structures around it have been demolished—on a construction lot in Gongqin Village, Yichang, Hubei Province. Credit: Imaginechina/AP Images.

Founded in 2007, **the Peking University–Lincoln Institute Center for Urban Development and Land Policy (PLC)** in Beijing is one of China's leading authorities on the property tax, municipal finance, urban development, housing policy, infrastructure, and land conservation. Its work includes research, training, policy analysis, academic exchanges, advisory services, and demonstration projects throughout China. The center also extends its work to other Asian countries, with activities across many of the Lincoln Institute's six goals. To learn more about the PLC, visit **www.lincolninst.edu/china-asia**.

Participants in a PLC course in Hangzhou, China. Credit: Yihao Li.

forcibly removed or managed to strike a more favorable buyout deal with the developer. "But this process has a very high transaction cost," says the Beijing professor. "The costs of bargaining this way are high for everyone involved."

The development policies led to other problems, too. According to some estimates, housing prices tripled between 2005 and 2009. That led to rampant speculation and a proliferation of sprawling and unoccupied "ghost cities."

"All these things have their roots in land policy," Liu says, and China's land policy simply hadn't kept pace with its breakneck growth. After China joined the WTO, the country was changing rapidly, and the law became a barrier.

Fundamental Shifts

By 2013, the central government recognized the need for change. Part of the impetus was the rise of small property rights (SPR) housing—illegal housing built on village land that was being snapped up by migrant workers and others who needed to be close to urban areas. (For a closer look at SPR housing, see *Land Lines*, July 2015.) As the practice spread, eventually accounting for as much as 20 percent of the country's housing, officials saw that SPR served a social and economic function, and calls increased for amending the land administration law (Liu 2019).

In November 2013, the Communist Party's Central Committee announced a policy reform aimed at both increasing land use efficiency, by allowing market-based land sales, and improving equity, particularly for farmers. "The broad principles were a shift from focusing on value to focusing on people," Liu says, "and from a government-dominated approach to enabling the market to do much of the work."

While the central government knew the general direction it wanted to take, working out the details was no simple task. Much of that work fell to the Development Research Center (DRC), which makes policy recommendations to the State Council and the Central Committee. More than a decade earlier, the DRC and the Lincoln Institute had conducted a joint study related to the property tax. Not long after the intent to reform the land administration law was announced in 2013, the DRC approached the PLC, this time for help figuring out how the law could be improved.

As a research institution, the PLC is well positioned to help connect Chinese government officials with relevant outside expertise (see sidebar). During the summer of 2014, the PLC brought several prominent Chinese and foreign scholars to a two-day workshop at Peking

University to speak on real estate markets and property rights, land use planning and regulation, housing policies, farmland preservation, and the property tax. Several officials at the vice minister level attended the workshop, including the deputy head of the DRC, a member of the National People's Congress legal committee, and officials from the Ministry of Land and Resources.

As one of many institutions studying land use in China, the PLC had looked closely at the existing land administration law. Now the Ministry of Land and Resources invited specific policy advice for reform. For the PLC, that meant shifting from a purely research-focused agenda toward a more advisory role, one that would help the government navigate the fraught terrain of ground-level reform.

"The general direction for land policy reform was quite clear in 2013," Liu says. "But when you look into the details, it's still tricky. The government became very cautious about putting it into implementation."

Outside observers often see China as a bastion of top-down, command-and-control rigidity. Yet within the central government, the spirit of experimentation is alive and well. Deng Xiaoping, the leader who cautiously set the country on the path of reform and opening in 1978, was fond of describing that process as "crossing the river by feeling for stones."

Reforming the land administration law was no different. In February 2015, the central government announced that it had selected 33 pilot sites throughout the country to test out reforms. This lets local governments figure out what works best for them.

At the same time, the Party leadership was taking a firm stand in favor of equity in the housing market. There, too, the PLC helped provide quantitative analysis: the China International Center for Economic Exchange, a quasi-governmental think tank, had commissioned the PLC to lead a team of researchers from several institutions to examine government control of the market.

The central government had traditionally taken a one-size-fits-all approach across the entire country, which didn't allow for much flexibility to respond to the idiosyncrasies of regional and local housing markets. (This approach was frequently described with the aphorism, "When Beijing gets sick, all the other cities have to take the medicine.") The report, completed in December 2015, advocated a shift toward local regulation of housing markets in individual cities, in part to combat speculation. That point was driven home in October 2017, at the 19th Party Congress, when President Xi Jinping declared that "houses are for habitation, not for speculation."

Changes to the Law

In August 2019, the National People's Congress formally approved the amendments to the land administration law that had begun taking shape some six years earlier. The amendments went into effect at the beginning of 2020, but the implementation is still being worked out. One major change is that the process of converting rural land to urban space has been dramatically streamlined. If a project conforms to local planning regulations, villagers can now deal directly with developers. This gives villagers more bargaining power and higher compensation in the form of land leasing revenues. In contrast to the previous model, most of this revenue will now stay within the village.

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The urban–rural boundary in Guilin, Guangxi Zhuang Autonomous Region, one of the first Chinese cities that opened to tourism. The population of the city has tripled since 1978. Credit: luxiangjian4711/iStock.

The amendments to the law are also much fairer for the farmers whose land will be developed. For one thing, farmers will receive a larger share of the increased value of land converted to urban use. Compensation is no longer based on the value of the original use. Instead, it will be based on a comprehensive price matrix that includes the quality, location, original use, and production potential of the land, as well as market conditions. Compensation will also include payments to cover farmers' loss of livelihood and the costs of social security.

Perhaps just as important, the amendments limit the conditions under which a higher-level local government can take village-owned land through eminent domain. When the government needs to take land, it must have a clear public purpose, such as public infrastructure, affordable housing, poverty reduction, or military or foreign affairs. "That's actually a lesson we learned from the United States," Liu notes.

In terms of social fairness, Liu says, that concession is one of the key breakthroughs of the new law. "All around the world, landowners dislike compulsory purchase of their land by the government, or eminent domain," Liu says. "After seeing so much tension over expropriation, the Chinese government decided to limit its scope."

The new amendments also contain provisions making it easier for rural people to migrate to cities, part of an effort to boost the flagging national economy by encouraging continued, albeit more careful, urban growth.

New Revenue Needed

The land administration changes underway are a significant step forward for villagers. But by allowing villages to make deals directly with developers, the amendments have created a new challenge for the local governments above them, which will lose the revenue previously gained from such land transactions. Some efforts are already being made to test ways to mitigate this problem. In several pilot projects, 20 percent of the land concession fee paid by the developer to the village is earmarked for higher levels of government.

That shift in revenue is significant in light of another reform coming from the central government, which will make more city dwellers eligible for social benefits. A major focus of this broader effort is reform of the long-controversial *hukou* system, which was introduced in the 1950s and gave Chinese citizens access to social services such as health care and public education for their children, based on a residence permit. Traditionally, hukou was tied to place of birth. In many cases, skilled workers who moved to a different city could change their hukou and gain access to social services. But the vast majority of Chinese migrants, particularly construction laborers and factory workers, were legally barred from transferring their hukou and were thus excluded from publicly funded social benefits. "We don't want migrant workers to be left behind," Liu says. "They should be integrated into urban citizenship, but the hukou is a barrier for them."

Over the past several years, the central government has been abolishing hukou requirements in successively larger cities. In April 2020, partly in a bid to boost the economy, the government announced that it was allowing residents without hukou in cities that have populations under three million to receive social benefits. Roughly three dozen cities in China have more than three million people, and therefore are not yet subject to hukou reform, but ostensibly will be as the requirements continue to expand to larger cities. Finally treating migrant workers as actual residents of the cities in which they work is a significant step toward real social equity.

Now, though, local governments must find a way to fund services for legions of urban residents granted the right to social benefits. "If you are the mayor of a city, certainly you worry, 'Where do I get the money to take care of these people?'" Liu says. At the end of an era in which land sales provided a reliable source of money, municipal governments are left in an especially tight bind.

One solution would be the introduction of a property tax. "The property market is a big deal here," Liu says, "but China is one of the few countries that does not have a property tax." Such a tax was part of the reform package announced in 2013, and the government is drafting a national property tax law. But its presentation to the National People's Congress has been delayed, and the entire effort may now be on hold because of COVID-19 and the associated economic downturn, along with concerns about public opposition to a new tax.

When it comes to the current amendments, Liu predicts that it will take at least three years to get any sense of how effective the changes will be. And, he concedes, there may be plenty of tweaking yet to come. "In China, sometimes we joke that all regulations are temporary," he says. "But that leaves space for you to come back and amend the regulation; it's not something that's carved on the wall. And that's very practical, because China is changing rapidly."

Matt Jenkins is a freelance writer who has contributed to the *New York Times*, *Smithsonian*, *Men's Journal*, and numerous other publications.

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