State Fragmentation and Rights Contestation: Rural Land Development Rights in China[1]

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Abstract:
The functionalist reasoning of institutional changes builds on individual rationality and explains institutional changes from the demand side. While insightful, a comprehensive understanding also needs to take into account the supply side. The state, as the ultimate supplier of institutional changes, plays the pivotal role of agency; therefore, its willingness and ability decide how such regime change occurs and what particular form the new regime takes. Since the mid-1990s, the Chinese economy embarked on a path of rapid industrialization and urbanization. The contestation over rural land development rights in China offers an excellent case to illuminate the importance of state agency in institutional changes. Drawing on case studies in China's three major urbanizing regions, this article analyzes how villages brought their own land directly to the land market and reaped handsome profits. We argue that the three successful cases, i.e., Nanhai in Guangdong, Kunshan in Jiangsu, and Zhenggezhuang in Beijing, all represent a product of active agency on the supply side. The Chinese state's fragmented authority provides a favorable institutional environment for such changes.

Keywords: land development rights, institutional change, state agency,

JEL code: H71, K11, P26, R52

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I Introduction

The rise of the West can be attributed to the establishment of a well-defined property rights regime. By defining and enforcing rights for property owners, the state created a conducive environment for entrepreneurship, technological innovations and economic growth (North and Thomas, 1976). According to these scholars, explaining development really boils down to an understanding of the evolution of the property rights regime in a society. In their view, institutions such as property rights regimes develop in response to changing private needs or profit potentials. "It is the possibility of profits that cannot be captured within the existing arrangemental structure that leads to the formation of new (or the mutation of old) institutional arrangements" (Davis and North, 1971: 59). Libecap (1978) found that potential gains played a decisive role in the emergence and refinement of mineral rights in American West in the 19th century.

This functionalist reasoning builds on individual rationality and explains institutional changes from the demand side. While insightful, a comprehensive understanding also needs to take into account the supply side. Social scientists have been long debating the power of structure and agency in theorization (Lichbach and Zuckerman, 1997). Structural changes such as industrialization and capitalist expansion may provide a necessary condition for certain phenomena, like social movements. Agency, in the form of cultures, memories, revolutionary ideas, and capable leaders, brings that potentiality to fruition. Changing structures in the economy may render a new form of property rights regime superior for the society, but that is only necessary for its adoption. The state, as the ultimate supplier of this institutional change, plays the pivotal role of agency; therefore, its willingness and ability decide how such regime change occurs and what particular form the new regime takes. History has witnessed many unwilling or unable states to embrace better property arrangements.

The contestation over rural land development rights in China offers an excellent case to illuminate this logic. Since the mid-1990s, Chinese economy embarked on a path of rapid industrialization and urbanization. Factories, apartment buildings, shopping centers, highways, and subways all needed land to develop. But land supply was severely restricted by the division between urban and rural land markets. Land requisition by urban governments was the main legitimate channel to transfer land from rural to urban uses (Lin and Ho, 2005). Despite the tremendous gains, rural communities were prohibited from dealing with land users directly. Demand pull was clearly not enough to break down the rigid, inefficient, and unjust land rights regime.

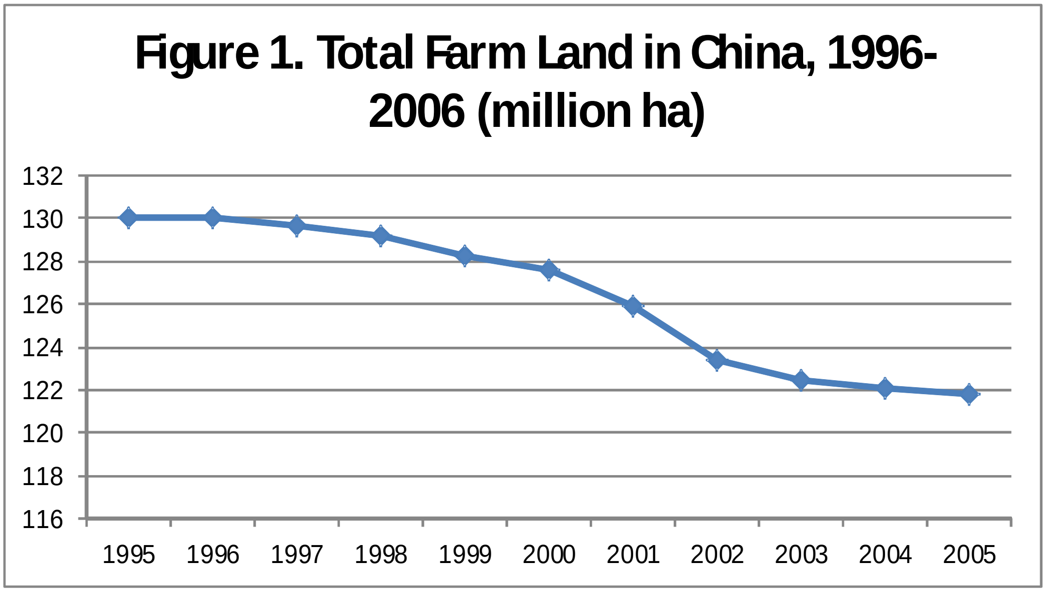
The continuity of the formal land regime, however, has been increasingly challenged by de facto control over land rights by village communities. This is particular true in China's major urbanizing areas where farmers fought for land development rights. This research focuses on three examples in the Pearl River Delta, the Yangtze River Delta and the Beijing-Tianjin Area to better understand how villages brought their own land directly to the land market and reaped handsome profits., i.e., localities, such as We argue that these three successful cases, i.e., Nanhai in Guangdong, Kunshan in Jiangsu, and Zhenggezhuang in Beijing, all represent a product of active agency on the supply side. The Chinese state's fragmented authority provides a favorable institutional environment for such changes. When state actors have conflicting interests or the same state actor fulfills multiple tasks, local communities have more room to assert informal control over land development rights.

The rest of the paper is organized as follows. We first define land development rights and outline China's land regulatory system and its evolution in the past thirty years. The next section analyzes how state fragmentation opens up opportunities for villages and urban governments to break down the urban-rural land divide. This dynamics is illuminated with cases from Nanhai, Kunshan, and Zhenggezhuang. We end the paper with some general thoughts about reforming the present land management system and the wider implications for China's unfinished urbanization and economic transition.

II. Land Regulation and Rural Development Rights in China

Property rights consist of a bundle of rights, including at the minimum the rights to use, transfer, and profit from the property by its owner. In recent decades, the notion of the right to develop started to become popular in the discourse of property rights. Citizens in advanced countries were increasingly concerned about the negative or even disastrous consequences of development, such as pollution, deforestation, global warming, decrease in ecological diversity, and sought to curb the excess. Carbon emission quotas essentially created a development right on properties (i.e. businesses) and encouraged more efficient allocation of resources through market transactions (Manne & Richels, 2004). Another major tool was to lower the development intensity of land. In 1968, the New York City introduced a density transfer mechanism to protect landmarks. Since then, many local governments in the United States issued regulations to enforce land development rights and facilitated the trading of this right regionally (Mills, 1982; Tavares, 2003;).

Land property rights in China have evolved in a similar fashion as the government added more layers to the rights bundle, giving birth to a more sophisticated regime. Under the planning system, land was owned, used, and allocated by the state. Distinguishing the rights in the bundle became impossible and unnecessary. As Chinese economy started to liberalize and globalize, this system became increasingly antiquated and cumbersome. If, according to the Constitution, land could not be rented or traded like a commodity, how could foreign enterprises set up production facilities in China? This practical problem forced the government to be flexible and creative. On December 1, 1987, Shenzhen auctioned off a parcel of land for 50 years (Lin and Ho, 2005; Po, 2008). This pioneering experiment effectively separated the use right from ownership and created a land use right market in Chinese cities.



Source: Calculated from annual reports by the Ministry of Land and Resources.

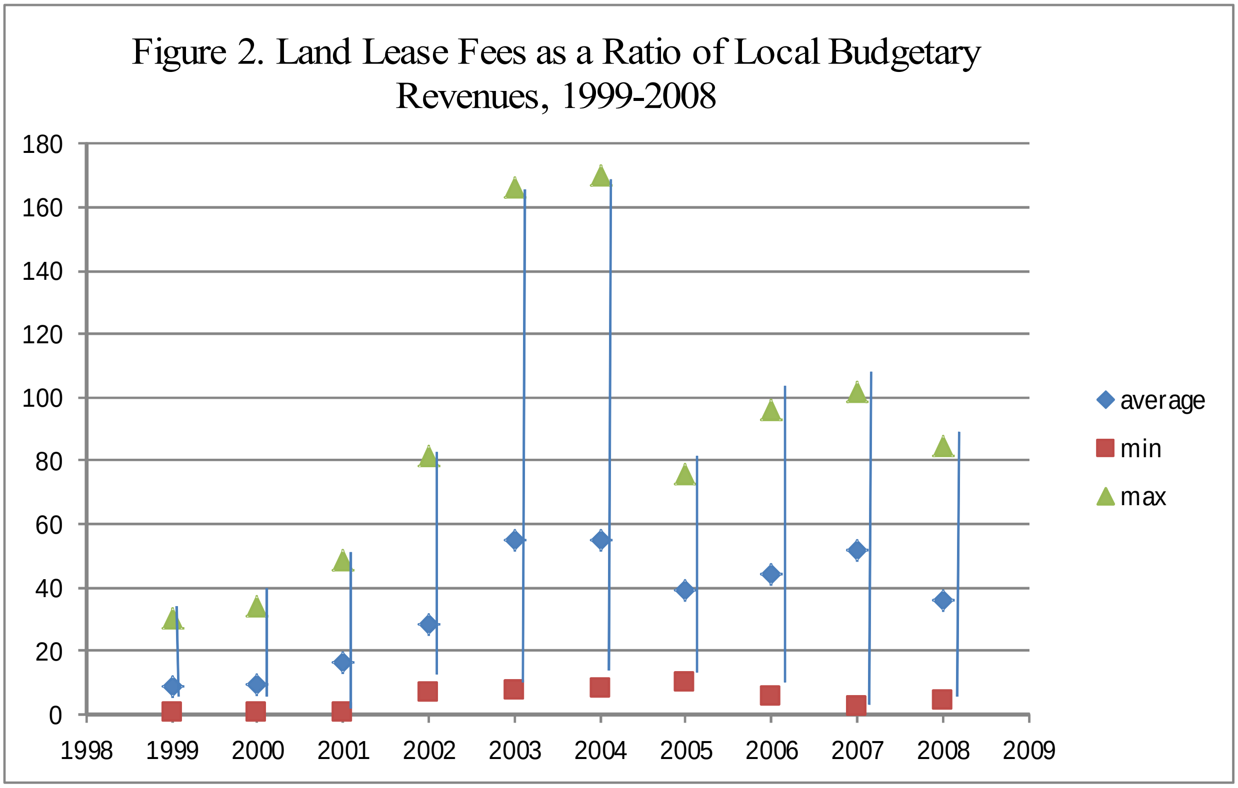
This institutional adjustment, while improving efficiency, led to its own problems. In order to develop industries and businesses, overzealous local governments grabbed land from farmers to build infrastructures and industrial parks (Tao et al, 2010). As a result, the quantity of farmland declined steadily (Figure 1). Lester Brown's 1995 book, *Who Will Feed China*, became the catalysis for another rule change. He questioned China's ability to feed its growing population as cropland and water became scarcer and warned that huge grain imports from China would cause a world food crisis. The Chinese top leaders acted swiftly and charged the State Land Administrative Bureau to study farmland protection and conduct surveys in the country. They were particularly concerned about the rapid agricultural land conversion in 17 urban areas as shown in the Landsat photographs for 1987, 1991, and 1995 (Lin and Ho, 2003). This prompted the central government to introduce tough policies to preserve farmland. In 1998, an elaborate top-down system was adopted and all local governments were assigned certain quotas for construction land and agricultural land (Wang et al, 2009).

The driving force behind this institutional change was clearly not "post-industrial" issues as in other developed economies. The Chinese state was motivated to prevent a subsistence crisis, i.e. food shortage. But this policy had the similar effect of creating development rights in China. By limiting the quantity of land designated for non-agricultural purposes, the central government, in essence, reduced the density of land development. The need for more non-agricultural quotas gave birth to many creative local experiments. Zhejiang province, for example, established a sophisticated development rights trading infrastructure so that less developed regions could trade off their development rights, i.e. construction land quotas, to localities with more industrial and business opportunities, such as Hangzhou and Wenzhou. This innovation encouraged a more balanced and equitable development without losing economic efficiency (Wang et al, 2009). Many localities, such as Chongqing, Chengdu, and Tianjin, also tried to earn development rights through reclaiming farmers' residential land to farmland. These experiments were tainted by coercion and farmer's resistance (Yang, Su, and Tao, 2010).

From this conceptual point of view, the urban-rural dual land ownership really boils down to an issue of development rights. According to the Chinese constitution, land in the urban areas belongs to the state and village collectives are the owners of rural land. Beside farmland , there exists a large quantity of construction land in the countryside. According to a national survey conducted by the Ministry of Land and Resources, in 2005 China's construction land was about 249 million mu, in which 64% was in the countryside. As classified as construction land, villagers have the right to use the land for non-agricultural purposes, such as housing, roads, irrigation projects, libraries, factories, and commerce. In this sense, rural communities have already acquired some right to development. Under the dual ownership structure, however, their land development right is severely constrained. In general, rural communities and villagers are not allowed to use their land to engage in business opportunities beyond the rural boundaries. Interestingly, the central government supported a more liberal interpretation of rural development rights until recently. In the early 1980s, rural collectives were encouraged to build facilities to run by themselves or rent out to any business, including those from urban areas, for incomes. The 1987 Land Management Law (LML) started to reinforce the urban-rural divide but still left several openings. Rural collectives could lease their land use right to urban businesses in exchange for some stakes in the joint adventures. Even urban residents might construct houses on collective land upon approval from the county government. When the LAL was revised in 1998, rural collectives were forbidden to lease or transfer land to non-local businesses, even though land could still be used for joint ventures. This remaining opportunity seemed to offer some hope for rural communities. But, because of the failure of TVEs in the second half of 1990s, very few businesses were still willing to set up joint ventures with villages and townships. They preferred leasing land and run businesses independently. In addition, houses built on collective land could be sold to members of the villages only and each household was entitled to one land lot for house construction (Jiang, Liu, and Li, 2010).

Limiting rural development rights amidst rising demand for non-agricultural land in the late 1990s seems to contradict basic economic principles of supply and demand. Part of the answer can be found in the urban area. In contrast to rural communities' truncated right is the extra-territorial power reserved for urban governments. As a superior authority, they have the power to redraw the city boundaries and annex land from rural communities under the name of planning and development. Once a piece of rural land (farmland or construction) falls within the planning zone, public interests warrant land requisitions. Unlike eminent domains where the compensations are based on fair market values of the land, villagers in China are paid according to agricultural outputs of that land, usually 10-30 times of annual outputs (Tao et al, 2010). Urban, mostly city and county, governments then become the owners and lease the land to industrial and business users directly. This extra-territorial power essentially deprives rural communities of their land development rights. Since agricultural and non-agricultural uses of land have different productivity, this forceful transfer of development rights carries tremendous amount of wealth. In Fujian province, for example, one local government paid 10,000 yuan per mu (one fifteenth of a hectare) to farmers but collected 200,000 yuan per mu from industrial land users and 250,000 yuan from residential developers (Ding, 2005). In its drive to build the new coastal development zone, Tianjin requisitioned large amount of farmland from villagers in Dongli district. The compensations ranged from 30,000 yuan to 100,000 yuan per mu but the lease price on the market was 2 to 4 million yuan per mu (Yang, Su, and Tao, 2010).

Urban governments did not hesitate to turn their local monopoly of land supplies into a money-making machinery. Since the late 1980s, taking land from farmers and leasing it on the market have become the major business of local governments (Su and Tao, 2010; Lin and Yi, 2011; Wu, 2010). In 1989, the State Council tried to regulate the new land use right market and grab a share of the handsome land lease fees. According to the formula, the center would claim 40% of total fees and local governments kept the rest (State Council, 1989). Local governments resisted central encroachment and fought back fiercely. As an extra-budgetary income, local officials could easily manipulate compensation figures and lease prices and fool the center. Only two months after the notice, the central government dropped its share to 32% (Ministry of Finance, 1989) and further to 5% three years later (Ministry of Finance, 1992). In the 1994 tax reform, land lease fees were assigned to local governments as their exclusive incomes, with city and county governments taking the lion's share. This further incentivized local officials for land requisitioning and leasing. Figure 2 shows land lease fees as a ratio of local budgetary revenues. There has been a steady increase from 10% in the late 1980s to around 40% in the 2000s. In some provinces, such as Zhejiang and Fujian, the ratio could be as high as 170%! These figures are calculated from provincial level statistics. There are tremendous variations at city and county levels; therefore even these numbers may have understated urban governments' dependence on land fees (Zhou, 2007). Since budgetary incomes are mostly spent on salaries, many cities and counties have counted on land lease fees to build infrastructures, attract investments, and develop new urban districts.



Source: China Statistical Yearbook (www.stats.gov.cn) and China Land and Resources Statistical Yearbook, various years.

III. State Fragmentation and Land Rights Contestation: Three Cases

The above analysis demonstrates the importance of agency in setting formal institutional rules. The state holds the ultimate power in defining and enforcing property rights. But the state is never a unitary and homogenous actor and different agents within the state may pursue separate and sometimes even contradictory goals. China experts have long recognized the existence of state fragmentation in a supposedly authoritarian state. Lieberthal (1988) blamed China's inter-bureaucratic rivalry for policy ineffectiveness in the energy sector. Other scholars, on the other hand, viewed state fragmentation as a favorable condition for institutional changes in an otherwise very rigid system. When Mao died, the power struggle between reformers and radicals caused a stalemate in the central government. Yang (1996) found that the divided top offered an excellent opportunity for local experimentation and household responsibility system was tried by some localities and finally accepted nationwide.

In the case of land development rights, the central government's concern about food security ran contrary to local governments' drive for faster industrialization and urbanization. Instead of enforcing the quotas strictly, local agents tried to bypass these restrictions through legal or paralegal channels. In many cases, they simply broke the regulation and requisitioned farmland beyond their assigned quotas. According to latest statistics from the Ministry of Land and Resources, in the first quarter of 2011, more than 27% of all reported illegal land use cases involved city and county governments. They converted above-quota farmland to construct industrial parks, service centers, factories, etc. (Hong, 2011). An equally fierce contestation is over development rights of rural land. In this realm, urban governments ironically turned to strong supporters of the status quo rule. In recent years, the State Council decided to revise the LAL and wanted to open up more room for rural communities to regain their development rights. The draft law faced stiff resistance from local governments and was dragged into oblivion. Therefore, the continuation of the urban-rural divide is a manifestation of urban power and agency of denial.

Like rampant illegal uses of farmland by urban governments, this formal divide has been gradually eroded by rural communities. Rental houses mushroomed in urban fringes to accommodate migrant as well as low income population from urban areas. Cheap apartments and villas on collective land attracted crowds who were priced out of the urban housing market or were searching for a less congested lifestyle. In some fast industrializing regions, renting land or factory floor space from villages became the top choice for many small and cost-conscious enterprises and businesses. Through their hard work and ingenuity, millions of farmers have already expanded their land rights and profited from urban development. The huge potential gains may have lured courageous villagers to defy the legal prohibitions. While certainly true, this analysis has overstated the power of individual farmers. The state is still capable of stamping out social resistance if it is united and determined. Therefore, understanding the lack of such unity and willingness completes the supply side of the story. A host of state actors worked together and provided the necessary agency to bring down the state monolithic control and oversaw flourishing informal markets of rural land rights.

Village collectives. In legal terms, villages are not part of the state, but have become deeply involved in China's rural governance. Village cadres are indispensable for local state to accomplish state tasks such as tax collection, birth control, land requisition et al. Because of their importance, local state interferes with village affairs, particularly the selection of village party secretaries and VC heads (Su et al, 2011; Tao et al, 2011). This penetration deprives rural collectives of some genuine autonomy but enables them to negotiate some space in local political discourses and command some resources. This unique position turns villages into an active agency in rural development. Many entrepreneurial village cadres supported rural enterprises by offering implicit property guarantee, accessing precious bank loans, and sometimes protecting local markets (Oi, 1992; Naughton, 1996). By the early 1990s, many village enterprises fell victim to their own success. Massive entry of private enterprises led to fierce competition and regional protectionism further narrowed the market. Both drove down profitability and forced many village firms out of business (Tao et al, 2010). Cadres turned their entrepreneurial spirit to land development. The following three cases illustrate their roles very well.

Nanhai, Guangdong: Nanhai used to be a county-level city located in Guangdong province and is now a district of Foshan city. In the policy circle, it has gained the reputation as the second Xiaogang village (Fan, 2004). Like the latter in leading the household contract system in the late 1970s, villages in Nanhai pioneered the effort to reclaim their land development rights. Its rapid industrialization earned it the fame as one of the four "tigers" in Guangdong. In 1987, the State Council selected Nanhai for experimenting with agricultural exports (Huang, 2008). This trial policy, however, failed because villagers soon discovered more productive way of using their land. One advantage of being in Guangdong was its early experience with China's opening up and liberalization. Starting in the late 1980s, many foreign and private enterprises came to Guangdong to look for production sites because of its convenient location to overseas markets. Villages in Nanhai seized this opportunity and converted their collective land from agriculture to industries and commercial use. Since then, land rents have become a major source of village incomes. For example, as early as 1989, cadres in Pingnan village managed to attract one enterprise from Taiwan. The village raised more than 2 million yuan and built a plant of 2,400 sq meters for it. After this , the village continued the expansion of its industrial park to host a large number of enterprises by the early 2000s, including 32 from Taiwan, two from Hong Kong, and

230 domestic ones. Rents from land, plants, and shop space have become a steady source of revenue for the village. In 2001, the Pingnan village ranked in 26 million yuan and four small groups (*Cun xiaozu*) underneath the village collective earned 21 million yuan (Jiang, Liu, and Li, 2010). Another village, Xiabai, developed 1,700 mu land for industries in 1993 and rented it out for 50 years. By 2002, more than 60 enterprises had settled in Xiabai, paying six million yuan in rents annually (Jiang, Liu, and Li, 2010).

Village agency was fully manifested in how land was managed and rents were dissipated. Instead of the traditional structure, these villages pooled all collective land together, including construction land and contracted farmland, and formed village shareholding corporations. Membership included all village residents. All eligible community members were allocated with certain shares of the corporation. The specific formulas varied but the basic principles remained similar. Xiaxi Sanlian village, for instance, gave each villager 0.2 share as the base and allocated extra shares according to one's age: 0.3 share for members under 10 years old, 0.6 between 11 and 20, 0.9 between 21 and 30, 1.2 between 31 and 40, and 1.5 above 41. As shareholders of the village corporation, villagers were entitled to annual dividends. In Xiaxi Sanlian, the rule stipulated that 58% of corporation profits (rents minus state taxes, administrative costs, and interests on loans) must be distributed to villagers according to their shares. According to surveys based on some villages and villagers' small groups, the dividends rose from 1,016 yuan per villager in 1994 to 1,951 yuan in 2000, making up about 25%-50% of rural households' incomes (Jiang, Liu, and Li, 2010). Village collectives used the remaining corporation profits for infrastructure constructions, such as roads, water treatment facilities, sewage, environment, and social welfares like subsidies for health care, education, and pension.

This institutional innovation laid down a solid foundation for its future success. The stockholding corporation offered all villagers with an equitable access to rents from their land development rights. This enabled village cadres to reclaim contracted farmland from households without much resistance. As de jure owners of collective land, villages had more legitimacy to engage in industrial and commercial development. It would be very difficult for individual households to challenge the state monopoly directly. Compared with land leases by urban governments, collective land had huge cost advantages and could be rented on short-term leases. By 2002, about half of the total industrial land in Nanhai city was owned by rural collectives (Jiang, Liu, and Li, 2010)! Technically, this land was illegal but it was particularly attractive for small and private enterprises. By 2004, more than 17,000 private enterprises and 1,500 foreign factories had settled in Nanhai, making it a major center for aluminum products, construction materials, textiles, chemicals, auto parts, and motorcycles (Huang, 2008).

Kunshan, Jiangsu: Kunshan has attracted a lot of attention from policy analysts mainly because it is the richest county in China. What is equally impressive is its innovative approach to rural land development. Quite different from collective shareholding corporations in Nanhai, Villages in Kunshan relied on investment cooperatives and gave individual villagers more freedom to directly expropriate gains from land development rights. This institutional choice is a result of active agency by village cadres in responding to opportunities as well as constraints.

Kunshan used to be a sleepy rural county located between Shanghai and Suzhou. Opportunities started to knock the door in this uniquely situated region in the early 1990s. To rekindle the drive for reforms after the 1989 incident, the central government decided in 1990 to develop Shanghai Pudong into another pillar of development and opening up. In the following years, a national level economic development zone was created in Kunshan and the Suzhou China-Singapore industrial park began to operate. These policies brought a lot of energy to the Yangtze River delta and many overseas enterprises built their production facilities in this area. This generated huge demand for land but, as the only legitimate land suppliers, local governments pocketed most profits through land requisition. Lujia Town, for example, borders the Kunshan Economic and Technology Development Zone. Since the early 1990s, this town has lost about 1,000 mu land every year to the development zone. The land lease price was about 200,000 yuan per mu, but the compensation to villagers was 20,000 yuan per mu at most (Shi, 2005). Even one town official acknowledged that the town government revenue increased 100 times since the early 1990s, but rural household incomes during the same time period only tripled.

Lujia town soon found innovative ways to recapture part of the gains. As early as 1996, some Taiwanese businessmen contacted Shen Weiliang, the party secretary of Chetang, a village under Lujia Town. They tried to persuade the village boss to rent some collective land for their factories. Knowing perfectly well the government prohibition, Shen found a way to legitimize the transaction. In order to encourage local governments to preserve farmland, the Ministry of Land and Resources rewarded localities with valuable construction land quotas if they could cultivate new farmland. Shen mobilized villagers and reclaimed 40 mu of farmland out of mud ponds and ditches. As a result, Chetang village claimed that it had the right to develop this parcel of land. Unlike the Nanhai case, villagers were not enthusiastic about collective development. The failed attempt to build village enterprises in the 1980s left a sour taste. Shen made a fateful decision and let some daring villagers to invest their own money and rent factory space to enterprises. In 1999, Chen Zhenqiu, the village accountant then, with three other villagers leased 1.2 mu land from the village and invested 150,000 yuan to construct a factory with floor space of 432 sq meters. It was rented to a Japanese firm after completion in 2000. After paying the village 3,000 yuan land lease fee, Chen still made a good profit (Shi, 2005). His success excited many eager followers. By the end of 2001, about 20% of families in Chetang had established nine investment cooperatives and invested 6.8 million yuan. They rented out 15 factory buildings, two dormitories for migrants, one market place, and 66 shops. By 2004, more than 1,600 farming households in Kunshan had joined in these land-based investment cooperatives (Cai, 2003).

Zhenggezhuang, Beijing: The general public began to recognize the name of Zhenggezhuang in a few high profile events, such as Red Chamber shows and the Olympics relay. Policy analysts have in fact long praised Zhenggezhuang for its leadership in rural land development and in the construction of "Socialist New Villages" (People's Net, 2009). In addition to renting land, factories, and shops, cadres in Zhenggezhuang took full advantage of its close proximity to Beijing and broke into the booming housing market. Developing collective land also enabled the village to establish its own brand names, particularly in service industries.

Zhenggezhuang is only 25 km north of Beijing. But its economy used to be based on agriculture. Like most Chinese villages in the 1980s, Zhenggezhuang rode the first wave of rural industrialization and established a construction team under the production brigade leader Huang Fushui. By the end of 1990s, market competition forced the village to search for new development opportunities and real estate came to their attention. In 1998, the central government decided to adjust housing policies and gradually phased out government provision of houses. This opened up a huge market for commercial housing. Many apartment buildings sprung up in the outskirts of Beijing to cater the needs of Beijing residents (Hsing, 2010). Huang quickly reached the conclusion that the future of the Zhenggezhuang depended on better utilization of the collective land. The first trial was carried out on a small piece of industrial waste land. It was a stellar success. Four apartment buildings were instantly sold to enterprise employees who desperately needed a decent living space and yet did not have access to residential land as locals. This experiment not only solved the village's growing pain but also brought in precious capital. The five million yuan payment allowed the village construction company to take on more projects and earned 20 million yuan in a few months. Huang launched a more ambitious plan to rebuild village houses. Instead of traditional court yards, he moved villagers to apartment buildings. This saved a lot of land for more housing and other industrial and commercial development. Between 1998 and 2007, Zhenggezhuang demolished thousands of residential houses and, in return, 10,000 apartments were constructed. Each village member earned on average 3-4 apartments and the rest (about 45%) were sold to the public with a total of 13 billion yuan (Jiang, Liu, and Li, 2010). Because rural residential land did not go through government requisition, technically speaking, these apartments did not enjoy legal protection. But the low costs still drew a lot of buyers from Beijing. Villagers also rented out their extra apartments to migrants or recent college graduates.

In addition to large scale housing development, Zhenggezhuang also generated rents from collective land. Under the leadership of Huang, an interesting village-corporation arrangement was adopted. The village first reclaimed all farmland from contracted household with a promise of paying rents in the future. Instead of managing land directly as in the Nanhai case, it contracted all village land to Hongfu Corporation. The origin of this corporation was the construction team established in 1986 but it was transformed into a stockholding company in 1996. The village controlled 16% of the shares and the rest went to various investors, including villagers who had the financial means for investment. According to the agreement, Hongfu gained the power to manage 2,600 mu land from Zhenggezhuang. In return, it would pay 5,000 yuan per mu annually if the land was rented out and 500 yuan if not. The access to large quantity of cheap land gave the corporation some extra advantage in competition. For the village, it had a guaranteed source of rental income and did not need to worry about market fluctuations. On the surface, this land lease agreement seems redundant. Huang is both the village boss and the CEO of the corporation. From a legal point of view, however, this arrangement does absolve the village collective of some illegality. According to the current regulation, villages can use their land to support their own enterprises. By 2007, 27 enterprises from outside rented land and factory facilities. Hongfu paid 7 million yuan to Zhenggezhuang as land lease fees for that year, averaging 5,600 yuan per villager (Jiang, Liu, and Li, 2010). Building on cheap land, Hongfu turned Wendu Water Park into a brand name and established a foothold in tourism, hotels, shows, and exhibits. The corporation also lured two universities to settle in with low-cost land and became the sole service provider for their students.

Housing development and land lease have fundamentally transformed Zhenggezhuang into a modern town. In 2009, villagers on average earned 7,149 yuan from renting their apartments to migrants and college students. Villagers who owned shares in Hongfu corporation got an average dividend of 11,516 yuan per person. The village collective has also accumulated a lot of wealth and provided generous welfares for its members.

Urban governments. These three cases demonstrate the courage and ingenuity of villages and their leaders in reclaiming control over rural land development rights. To make these practices sustainable, village agency alone is not enough. A sympathetic urban government is necessary to provide certain degree of legality for these "illegal" policies. From a pure revenue perspective, urban governments and village collectives seem to be playing a zerfrom the state. This view ignores the fact that urban governments are multi-task agents and pursue multiple goals in their policies. Preserving urban-rural land divide is important but it is only one of many things on their agenda. In their drive for growth and development, urban governments sometimes find their interests in harmony with those of villages. From an organizational point of view, urban governments delegate power to various departments, each in charge of one or a few tasks, which further fragments the urban authority. In each case discussed above, urban agency complemented the village entrepreneurism.

Nanhai, Guangdong: Villages, like Pingnan and Xiabai, initiated the first drive to lease collective land to foreign investors. Instead of clamping down these "illegal" practices, Nanhai municipal government consolidated different experiences and issued regulations. According to the new rules, all villages must first lay out a clear plan for land use in the village, designating farming zone, economic development zone, and residential zone. Only land in the economic development zone could be used for rentals. Shareholding corporations should be established to ensure equitable distribution of land rents as well as sound management of collective assets. This supportive attitude was born out of the realization that collective land rentals were actually complementary to state land leases. While municipal land auctions tended to draw large enterprises which had more financial resources, collective land rentals appealed to small businesses which could not afford such large upfront costs. Startups and private entrepreneurs particularly preferred the flexibility offered by village collectives. Both could contribute to GDP growth and tax revenues... Local officials were so eager to duplicate this experience that they mandated all villages in Nanhai to follow this model, even though only villages with good locations had the opportunity to attract investors. According to one survey, among 191 shareholding corporations at village level in Nanhai, only 18% made enough earnings for dividends. Villagers' small groups did somewhat better and 52% of 1,678 shareholding corporations paid dividends (Jiang, Liu, and Li, 2010).

Guangdong provincial government did not stop Nanhai policy either. As the leader of China's liberalization and opening up, Guangdong faced the challenge of making space for industrialization and urbanization. The 1998 LAL introduced strict quotas to manage growth but the relatively equitable allocation of quotas across the country meant that fast growing regions would have more trouble of securing land use quotas for local investors (Wang et al, 2009). In this sense, loosening the ban on collective land fit in well with the provincial target of high growth. In 2005, Guangdong provincial government issued a new regulation and provided some legal basis for this practice in Guangdong (Guangdong Provincial Government, 2005). Interestingly, despite its support for industrial and commercial use of collective land, Guangdong has not formally endorsed residential development, i.e. "small property rights" housing. After all, LAL only stated that village collectives could use land to support their own enterprises or set up joint ventures with outside businesses. It explicitly banned sales of residential land and houses to non-community members. Therefore, Guangdong provincial government was only trying to exploit the ambiguity in the existing rules.

Kunshan, Jiangsu: When investment cooperatives first emerged in the late 1990s, both Kunshan county and Suzhou municipality reacted swiftly. Both supported these practices and believed that they offered hope for improving farmers' incomes. After the gradual decline of TVEs and bankruptcy of SOEs, local governments turned to foreign and private businesses to continue the drive for economic growth. For private businesses, flexible and affordable land rental market was crucial for their survival. Kunshan issued all kinds of favorable policies to encourage small and private businesses, including allowing private enterprises with less than 5 million yuan capital to rent land and factory buildings directly from village collectives, not lease land through the government.

This support, however, is not totally hand-free. Suzhou municipal government soon proposed new policies and tried to shape the rental market according to its own liking. Land reclamation offered a legal venue for rural collectives to acquire land use quotas. But this approach had its own limits. There was only certain amount of ponds and ditches in any village and village collectives soon ran out of land. Instead of standing idly by and watching farmers encroaching on farmland, Suzhou government provided an alternative for villages to obtain land development rights in 2000. When village farmland was requisitioned by urban governments, village collectives were entitled to 10% of that land and had the full right to develop for profits. This arrangement opened more space for villages to participate in industrial and urban development. Kunshan quickly followed and prohibited villagers from taking their own land on the market. Villagers could still form investment cooperatives but they must work through reserved land authorized by Kunshan government. For example, in 2004, Zhangpu town consolidated all 155 mu reserved land in the town and planned to build dormitories for migrants. 16 investment cooperatives agreed to participate in this development and invested in 46 apartment buildings for rent. Like in the past, these investment cooperatives paid village collectives 3,000 yuan per mu land fees annually (Shi, 2005). The active intervention by Suzhou and Kunshan did limit the scope of villagers' freedom, but the local documents also provided certain degree of legality for the villages.

Zhenggezhuang, Beijing: Compared with the previous two cases, Zhenggezhuang deviated from the current land regulation the most. First, after land consolidation, the village leased 3,000 mu land to Hongfu corporation. Only 800 mu were saved from demolition of farmers' court yards and the rest was originally designated for agriculture. In 1998, the central government tightened regulations over farmland conversion (Wang et al, 2009; Lin and Ho, 2003). Converting 2,200 mu farmland for non-agricultural use was very difficult. Second, Zhenggezhuang tried to break into highly profitable housing markets. Industrial use of collective land might be supported by a stretched interpretation of the 1998 LAL.. Sales of houses built on collective residential land, on the other hand, were explicitly prohibited by law. Huang and other village cadres exhibited a lot of courage, but they also skillfully exploited different agendas in the Beijing municipal government. They found a sympathetic ally in Beijing Rural Works Committee (*Nong Wei*). This committee was responsible for promoting rural development and increasing farmers' incomes. Convinced that utilizing collective land offered a viable approach to achieving both goals, the Committee helped Zhenggezhuang to navigate through the bureaucratic maze and won approval in both cases. Moreover, Beijing Party Secretaries, Jia Qinglin and Liu Qi, were invited in 2000 and 2003, respectively, to study the experiment in Zhenggezhuang, bestowing certain sense of legitimacy on the village (Zhenggezhuang Chronicle, 2008). These maneuverings turned a "law breaker" into a pioneer in developing socialist new villages.

There is nothing unusual about this episode. In recent years, the Ministry of Housing and Urban and Rural Development as well as the Ministry of Land and Resources reasserted the ban on "small property rights" houses on the market. Locao government did not openly challenge this policy but found new ways to bypass this divide and support rural development. In a new policy experiment, Beijing proposed to open collective land for rental houses. In its justification, the municipal government claimed that this policy was necessary for "exploring new models for utilizing rural collective land, opening up more channels for building rental houses, solving housing problems for low income families, meeting housing needs of migrant workers, upgrading rural industrial structure, and increasing farmers' incomes" (Beijing Municipal Government, 2010).

IV. Conclusion

China's fast urbanization have generated tremendous demand for land. The current land regulatory regime divides urban and rural land into separate realms and suppresses rural communities' land development rights. Villagers have strong financial incentives to break down this property rights arrangement and benefit directly from development. The potential gains alone, however, are not sufficient to change this institution. We argue in this paper that a good explanation of property rights regime change should address the supply side of the story and deal with agency. State actors define and enforce property rights; therefore their willingness will shape the evolutionary path of the institution. The continuation of the formal divide between urban and rural land reflects the unwillingness of urban governments to give up sizable land lease fees.

Fortunately for farmers, there are multiple actors within the state and state actors are also multitasked. State fragmentation generates positive momentums to counterbalance the agency of denial by urban governments. When village entrepreneurism meets sympathetic urban governments, de facto control over land development rights is gained by rural communities. Nanhai, Kunshan, and Zhenggezhuang analyzed earlier represent three successful cases from the Pearl River Delta, the Yangtze River Delta, and Beijing-Tianjin region. Due to different economic and social contexts, these localities have followed different strategies (industrial land vs. residential land) and adopted various organizational structures (village stockholding corporation vs. individual investment cooperative). But they share one thing in common: innovative village collectives and supportive urban governments.

Under China's current land regulatory regime, land ownership is separated into urban and rural and only urban governments have the authority to take land from rural areas for urban development. This not only deprives rural residents of their development rights but also leads to a lot of distortions such as too many industrial parks and overcapacity, real estate bubbles and inability of migrants to settle down in cities. From a policy perspective, while the local experiments discussed in the article are encouraging, it is far from satisfying. The formal urban and rural divide remains intact and many village collectives are still forbidden to lease their land directly on the market. To return more development rights back to villagers, policy makers need to address the incentive of urban governments. Since urban governments have become financially dependent on land lease fees, allowing rural collectives to rent their land would undermine urban governments' ability to raise revenues. Total liberalization is also difficult since it may result in a crash of the existing housing bubbles when large volume of rural construction land rushes to the market. A politically feasible policy reform would first for urban governments. A gradualist approach with a dual track land development system, in addition to some taxes on real estate stock and development would be essential for local government to find alternative sources of revenue and welcome reform.

We propose that China may need to first set up a rental property market track targeting mainly the 200 million rural migrants who already choose to live and work in cities. This could be done by redeveloping urban/suburban villages so that local farmers in these villages can legally build rental housing for migrants under the condition that such land development must conform to urban planning and these urban/suburban villages are willing to contribute some land to local government for infrastructure development. Government can also levy a rental income tax in the short run, and in a longer run, install a property tax to finance urban public services such as education. Compared with lump-sum land lease fees, real estate taxes provide a stable source of revenues; therefore urban governments should welcome this change. To further make up for the potential revenue shortfall from the proposed reform, local government in China could also be encouraged to convert their un-intensively used industrial land to residential and commercial use while at the same time capture some land value appreciation from such conversion. This would not only alleviate the revenue concerns of local government, but also help to reduce the distortions in China's urban land use structure.

As China's urbanization proceeds, many localities find it increasingly difficult to continue its old course of land requisition and leasing , making it a good time to introduce changes. With the right reform packages and properly designed fiscal and financial instrument, we believe that it is possible to overturn this agency of denial and restore villagers' right to develop.

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