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Governance – Defusing or fuelling land disputes in China?

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The imbalance of power inherent in China's land management model has been the root cause of land disputes in rural and suburban areas. These land issues increasingly threaten social stability, which in turn could have an impact on economic development and human security. The country's land management problems are exacerbated by governance weaknesses such as policy implementation difficulties and corruption. Given that land reform in China will continue to be difficult to achieve, at least in the short term, improvements to land governance should be prioritised, as better governance could ease the rising tensions that stem from inequities related to land rights.



This unverified picture, apparently circulated through Weibo, shows villagers in Wukan protesting against the encroachment of their land rights by the village leadership and the township government. The banners read 'People of Wukan have been treated unjustly. The central government please help us.'

Credit: via shanghaiist.com.

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Introduction

Stability has been the basis of China's sustained economic growth and its aspirations for great power status. In recent years, this has been increasingly threatened by simmering social tensions revolving around land use. The State Bureau for Letters and Calls reveals that land disputes account for 60 per cent of the annual total public petitions submitted to it (Nongmin, 2012). Without proper resolution, such petitions would evolve into more violent airing of grievances, including the collective protests and mass riots classified as 'mass incidents'¹ by the Chinese government. The past two decades have witnessed a surge in the annual number of mass incidents, from 8,700 in 1993, to 180,000 in 2010; with 65 per cent of these mass incidents caused by land disputes (Wang, 2010:87; Orlik, 2011).

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Competition over land has been identified as one of the key factors that may cause internal conflict and is closely related to governance (UNDP, 2009:3). The connection between land competition, social instability and governance is highly relevant to China, given that land is the most important means of production for its large, rural population (which accounts for two-thirds of the country's total population), and given the reality that authority over land is largely vested on the government. Although social unrest in China is far from reaching the level of systemic violent conflict, the increasing number of land-related mass incidents demonstrates the importance of the issue.

As this NTS Alert will argue, the primary cause of the land grievances is a land management model characterised by the excessive concentration of power in the hands of the state ('the state'

and 'the government' are used interchangeably in this paper to refer to the various levels of government). The government has the authority to determine land use while farmers who rely on the land for their living do not have meaningful participation in land-related decision-making.

Given the dominant role of the government in land management, the effectiveness of land governance in the country – how the government exercises its power – has a significant impact on farmers' land rights. This NTS Alert thus reviews China's land ownership structure, revealing the imbalance of power between the farmers who are the primary land users and the state. It discusses the ramifications of this imbalance for social stability. It then evaluates land governance in the country in relation to policy/legislation, effectiveness of policy implementation, inclusiveness of decision-making, and control of corruption. It concludes by highlighting some avenues for improving land governance.



Social tensions revolving around land use have become a serious concern in recent years. Seen here is the special police force maintaining order amid a land-related mass incident in July 2010 in Dongzhu, Jiangsu.

Credit: Woocool / flickr.

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Weaknesses in China's land management model

Land constitutes the primary source of wealth generation and empowerment for China's rural households as they rely heavily on agriculture. Farmers enjoy a range of rights to farmland, including land tenure rights, and land use and transfer rights – particularly with the improvements seen in policy and legislation over the past decades (discussed further in the next section on 'Weaknesses in China's land governance' under 'Policy/legislation'). The greater stability provided through, for example, the extension of the duration of land use rights has encouraged farmers to make long-term investments such as improving irrigation systems and building greenhouses. However, the way in which land ownership and authority over land use is structured in China also means that farmers continue to be subject to various inequities and instabilities.

Land ownership and the rural collective

The ownership of rural farmland rests not with individual farmers, but with the 'rural collective', which in practice often refers to the administrative village. This means, for instance, that the collective has the authority to withdraw farmers' land rights in order to construct public utilities or implement public welfare undertakings approved by the government (Li, 2003:67).

The village leadership, as the representative of the collective, is supposed to protect the interests of its members. However, village leaders often side with local governments, because at least half of them are appointed by the governments, and because doing so leads to their being rewarded financially and politically (Guo and Bernstein, 2004:258).

Land deals and local governments

In China, governments at various levels, and in particular local government, have the power of eminent domain over land deals and land management. Villagers and rural collectives are not authorised to negotiate or transfer their land rights for commercial uses without the approval of the local government (Li, 2003:67).

Of note in the context of this NTS Alert is that the government has the authority to appropriate collectively owned land for public-interest projects such as building roads and schools (Guo, 2001:431). Compensation is provided, but is generally based on the annual yield of the land rather than the market value, with farmers given land compensation, resettlement subsidies and compensation for standing crops and

fixtures (Li, 2003:67).

Zhu and Prosterman (2007:6) note that land deals with external developers are conducted in two phases: first, appropriation of the land by the government, and second, the conclusion of the deal between the local government and the external land users. Since 1999, land appropriation has resulted in average compensation to villagers of 18,739 yuan per mu (1 mu = 0.067 hectare). Meanwhile, the selling price to external land users is 40 times as much, or an average of 778,000 yuan per mu (Yang, 2012). This enormous gap between the compensation offered and the selling price has become a key source of villagers' discontent over land requisition.

From the perspective of local governments, however, these land deals yield significant benefits. It is estimated that income from land sales constitutes 80 per cent of a township government's revenue (Guo, 2001:428). The financial incentives for local governments to convert farmland into commercial uses are thus very great.

Central government priorities

However, for the central government, protection of civilian interests and preservation of social stability are essential as these are the source of the regime's legitimacy (Cai, 2010:5). In 2007, a wave of land rights movements emerged in several provinces. Self-organised farmers claimed land ownership in resistance to the land acquisition by developers in association with local officials. This string of incidents prompted the central government to issue more decrees to restrict the land requisition activities of local governments and raise compensation levels (Wang, 2010:89).

Despite such efforts by the central government to redress the imbalance in the power held by the various stakeholders of China's farmland, compensation continues to be disproportionate to the market value of the land. The interests of farmers continue to be subject to how the government uses its land management authority. As such, there is a need to protect farmers' interest through effective land governance, including provisions for properly negotiated contracts with external land users and the fair distribution of compensation.

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Weaknesses in China's land governance

The pivotal role of the government in China's land system means that good governance is vital to achieving fair and rational land use. Governance is defined by the UN Development Programme (UNDP, 2009:2) as 'the exercise of political, economic and administrative authority in the management of a country's affairs at all levels'. This NTS Alert is concerned with how the Chinese government exercises its power and mobilises its governance structures to manage farmland.

In general, governance could be evaluated through six dimensions: accountability, political stability, government effectiveness, regulatory quality, rule of law and control of corruption (Kaufmann et al., 2010:2). Based on these six dimensions, this section customises the evaluation of China's land governance into four aspects: policy/legislation, effectiveness of policy implementation, inclusiveness of decision-making, and control of corruption.

Policy/legislation

The government has made amendments and improvements to land-related laws and policies in recent decades. In the 1980s, the duration of villagers' land use rights was very short, usually three years or less. In 1993, the tenure was fixed at 30 years. This policy was incorporated into the revised Land Management Law in 1998 and further reinforced by the Law on Land Contract in Rural Areas in 2002 and the Property Law in 2007. In October 2008, the central government announced a policy that allows farmers to 'lease their contracted farmland or transfer their land use right' (China liberalizes, 2008).

The Law on Land Contract in Rural Areas also revised the provisions for dispute resolution. Villagers need no longer seek redress through local governments (which, as previously discussed, have a vested interest in land deals going through). The new law allows them to turn to



Farmers, such as this one in Sichuan, have enjoyed increased rights in recent decades. They nevertheless remain subject to various instabilities brought about by factors such as the system of collective ownership of land and weaknesses in governance.

Credit: UN Photo / John Isaac.

the justice system (Li, 2003:67). The courts and arbitration bodies now have the authority to mediate, arbitrate and rule on land disputes. At China's annual parliamentary session in 2012, Chinese Premier Wen Jiabao also highlighted the urgent need for a set of explicitly defined rules for compensation (Farmers' rights, 2012). The progress in land-related policies and legislation provides the foundation for protecting villagers' land rights. Hence, governance in this regard has been improving.

Effectiveness of policy implementation

The materialisation of improvements to laws and policies by the central government relies on effective implementation by local governments. However, to some extent, the central government diverges from local governments in how they perceive the issue of land disputes. Local governments have vested interests in converting farmland to land for commercial uses given the big price gap between the two. This results in ineffective implementation or even breaches of the central government's policies protecting farmers' land rights. Such implementation issues have led to public discontent. The central government, which has greater interest in maintaining stability, has issued more decrees to regulate local governments' land-related activities, but these have yet to be very effective (Jiang and Sun, 2008:66).

Inclusiveness of decision-making

According to the UNDP criteria for good governance, the negotiation of land deals should be transparent and the decision should be inclusive and consensus-based. Villagers with immediate interests in the deals should have the right to participate in, or at least be informed about, such transactions. However, in reality, villagers were often not consulted and land deals were settled between the township government and village leaders (Guo, 2001:426).

Control of corruption

The village leadership usually has the right to manage all the land compensation. Delay or misuse of the compensation has also triggered villagers' discontent. Since the power over land use is concentrated on a small group of people, this breeds corruption among government officials and the village leaders. In 2009 and 2010, for example, there were 1,978 land-related prosecutions against government officials, 1,751 of which were corruption cases (Guotu, 2010).

In effect, then, while some improvements have been instituted by the central government, governance weaknesses at the local level are still of serious concern. This could have implications for the country's social stability, an issue which will be explored in the next section.

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Ineffective governance and social instability: The Wukan case

There is not a straightforward causal relationship between governance and conflict, as causes of conflict are usually complicated and myriad. However, exclusion and lack of access to land are considered drivers of various forms of social instability (UNDP, 2009:6). This connection is illustrated by the 2011 Wukan incident.

In September 2011, villagers of the southern Chinese village of Wukan took to the streets to protest against the encroachment of their land rights by the village leadership and the local government. Over the past two decades, 400 hectares of land had been sold to real estate developers. However, the villagers had not been informed about the deals, nor had they been paid proper compensation. Between 2009 and 2011, the villagers had reported their grievances to the Bureaus for Letters and Calls at the city and provincial levels dozens of times, yet the complaints had gone unaddressed. The situation escalated into violent confrontation between the villagers and the police, and later, a siege of the town in December (Jacobs, 2011). The incidents ended with the election of a new leadership by the villagers in February 2012.

The Wukan protests in 2011 demonstrated how ineffective governance can amplify social tensions and trigger instability. Exclusion of villagers from land-related decision-making, denial of villagers' right to compensation, and failure of grievance reporting systems are all governance issues. The village leadership and the local government failed to live up to their duty as the representatives and supervising body respectively of the villagers' land rights, and this failure brought about strong villager opposition. Ultimately, the incident was resolved through a new village election, which indicates recognition of the important relationship between governance and stability.

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Conclusion

Although the government has carried out reforms of China's land system, such initiatives are being outpaced by rapid economic development and urbanisation. Given the competing interests of the various stakeholders, land reform will continue to be difficult to achieve. Moreover, there are warnings that precipitous privatisation of land ownership could cause land fragmentation and rising landlessness, and land reform should therefore be undertaken in a cautious and incremental manner (Ho, 2010:102).

Given the difficulties of land reform, it would be prudent for China to focus, at least in the short term, on improving governance. The quality of governance largely determines whether benefits generated by land sales are fairly distributed and land grievances are justly handled. Good governance encourages a reasonable balance of the interests of the various stakeholders, while ineffective governance leads to a concentration of power on one element, usually the local government and sometimes the village leadership.

As villagers' discontent accumulates over unequal distribution of land-related benefits, society could become susceptible to even small sparks of discontent. Hence, it is important to improve land governance in order to maintain social stability. The government has tried to make improvements towards this end. There have been amendments to consolidate the legal foundation for protecting farmers' land rights, such as reforming the dispute resolution procedure in favour of the farmers.

Financial incentives constitute a key reason for ineffective governance at the local level. Hence, reducing the dependence of local governments on land sales and encouraging other channels for generating revenue could improve the situation. The empowerment of farmers is another important area of governance. Providing farmers with skills training will enable them to seek employment out of agriculture and thus alleviate the negative impact of land acquisition on their lives. The above measures promote improvements in governance, which are fundamental to maintaining the fairness and equality of land use over the course of the land reform process (and even after it is completed), thus easing the tensions surrounding land rights.

Notes

1. According to provision 2 of the Regulations on the Response to Mass Incidents by Public Security Organs issued by China's Ministry of Public Security, 'mass incidents' is defined as any kind of collective act that is against the state's laws, rules and regulations, and that destabilises social order, threatens public security and violates the personal safety and property rights of citizens. Mass incidents include illegal gatherings, demonstrations, protests and strikes that seriously affect social stability.

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