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# The collective land system in China: congenitally flawed or an acquired irrational weakness?

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**Abstract:** With the level of urbanization in China now exceeding 50%, its collective rural land system is under increasing pressure, creating conditions in which there is increasing conflict between the efficient use of land for agricultural purposes and its retention as security for the rural population. This paper first examines the fundamental nature of China's collective land system by analyzing the collectivization history of China, then provides a comprehensive appraisal of the strengths and weaknesses of the collective land system's role in history and the challenges it faces in modern times. The main changes needed for the current collective system are identified as (1) the establishment of a new transfer mechanism for potential collective construction land, (2) the completion of land rights verification and consolidation work, and (3) the endowment of villagers with more rights to enjoy the distribution of land incremental value. The paper's main contribution and innovation is to question the relevance of collective rural land system in contemporary China, where a shift is now taking place from one of pure economic development to one involving more social concerns, and propose potential viable amendments to integrate the need for both perspectives.

**Keywords:** Collective land ownership, land rights, privatization, efficiency, justice, reform, China.

## Introduction

After the foundation of the People's Republic of China (PRC) in 1949, following millennia of feudalism, the new socialist regime gradually established a dual system of land ownership within a planned economy, with rural land being owned by village collectives and urban land owned by the state. After the introduction of its *Reform and Opening-up* policy in 1978, in order to adapt to the requirements of market-oriented economic reform, a two rights' separation land system was established by separating land use rights from land ownership. However, at the same time, legislation placed heavy restrictions on the use of rural collective land, limiting the villagers' enjoyment of the land. On the one hand, in countries where the land system is based on private ownership, such as the United States, Japan and the UK<sup>1</sup>, the land can be freely disposed of and sold at a trading price determined by the market. In contrast, according to China land management law, land belonging to rural collectives is restricted to solely agricultural use and cannot be sold on the general land market. On the

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<sup>1</sup> Although, in law, all British land belongs to the monarchy, landholders with the **Right Wing Yip** are actually the owners of the land. As long as they do not violate the law and land planning or infringe upon the rights of others, they can use and dispose of the land as freely as they wish.

other hand, the land development rights transfer system that exists in Europe and the United States, such as Britain's "Urban and Rural Planning Act" in 1947, stipulates that the government should pay compensation to the land owners who are deprived of their land development rights – an issue of considerable discussion in the literature (e.g., Micelli, 2002; McConnell et al, 2005; Renard, 2000). However, such a system is lacking in both legal support and practice in China. These restrictions make it impossible for the villagers to obtain land value-added income by land use conversion such as from agricultural use to real estate development. For such change of use to occur, the local government must first obtain the land from the collective – an expropriation process in which the government can make very substantial financial gains at the villagers' expense. This is a main reason for the land expropriation conflicts and local governments' excessive reliance on land-related finance in modern China (Lin and Zhu, 2014). It is felt by many that the current restrictions on rural land ownership rights are insufficiently well adapted to China's burgeoning socialist market economy, and calls for reform are becoming increasingly louder from both academic and political quarters.

Much of this concerns the suitability of the current collective land system for China's social and economic development; the extent to which uneven development in the Chinese countryside is attributed to the collective land system; and the kind of reforms needed in the future to promote land use efficiency and villager welfare. In this paper, we examine the kind of reforms that need to be made in the future based on a realistic rather than doctrinal position.

This paper provides a holistic analysis of China's collective land system that is lacking in existing studies. First, the literature is reviewed, which reveals many criticisms of the system. A historical material analysis follows of the formation process of the system. This suggests that the weaknesses of the system may have been intentionally designed by policymakers to serve China's planned economy at that time, and is therefore termed a "congenital flaw". Next, an historical appraisal is made of the role of the system, its increasingly irrational weakness and current operational difficulties, to identify the challenges faced in the current era. Final comments are provided concerning the reforms needed to bring about improvements to the system in the future.

## **Literature review**

China's village collective is a political or ideological concept while ownership is a legal concept from Roman law that is concerned with private law affairs (Jacobs and Martin, 2006). Obtaining a theoretical basis for the combination of these two concepts (collective and ownership) has been attempted in many studies and a variety of theories exist.

As established in the socialist transformation period (1953-1956), rural land is owned by the community as formalized by the 'village collective' and, as each farmer in the local community is a member of the collective, (s)he is the owner in theory. However, an individual farmer's ownership rights cannot be exercised without being combined with other farmers in the collective. Even then, the collective cannot independently enjoy civil rights

and assume civil obligations (Yang and Zhong, 2009) - this is the responsibility of the 'village committee'. At present, therefore, rural land is owned by the village collective but the exercise of its ownership rights is mainly by the village committee (Zhu, 2009). If the village committee fails to discharge its responsibilities, such as representing the collective members rights and interests when they are infringed, the collective members will not be able to enjoy the collective property (Hobhouse, 1913).

In practice, the will and behavior of the village committee is not legally bound by the will of the village collective (Gao, 2009), leaving the village collective without any form of retribution should its will not be satisfactorily pursued by the village committee. As Ho (2005) points out, uncertainty is a part of the system's operation and the fuzziness of China's system in rural land property rights is partly attributed to the central leadership intentionally leaving sufficient room for maneuver to cope with emergencies. For example, it is not possible to determine what level of collective units (natural village or villagers' group) hold real power over the land. This intentional fuzziness has become an excuse for local governments to seize the collective's land in order to promote land planning in the new era of *Reform and Opening-up*.

A similar restriction on the collective's rights is in its limited power and functions of land ownership. In civil law theory, the complete power and functions of ownership comprise four parts: possession, use, benefit and disposal, but are not fully enjoyed by the collective land ownership. For example, the use of collective land is limited to agricultural production, peasant house construction, the establishment of township enterprises and other construction that is closely related to the collective. It cannot be used for real estate development or other projects potentially capable of generating enormous economic benefits (Xie, 2008). It also has limited disposal opportunities, because rural collective land can only be expropriated by the governments at its agricultural use value (Lee, 2007), which is generally far less than would be obtained by selling directly to developers (Li and Liu, 2011). Furthermore, Article 184 of the "property law" forbids raising capital by mortgaging collective land ownership, cultivated land, residential land, private plots of cropland and hilly land. On the other hand, as Shao (2007) observes, the enriched functions of individual farmer's land contract management rights after introduction of the *Reform and Opening-up* policy has effectively replaced the basic rights of China's rural collective land ownership by mere caretaker responsibilities.

Other comments on the collective land system mainly focus on how this kind of property rights system arrangement influences rural agricultural efficiency. Li et al. (1998), for example, intimate that, under the current system, the collective enjoys the right to land ownership while the villagers enjoy land use rights for a fixed period. This kind of rural land rights arrangement is not stable. It leads to frequent land adjustment, thus reducing the villagers' long-term investment in the land (Li et al., 1998) and institutional constraints weaken land-related investment incentives (Lai et al., 2014). In contrast, though, Kung (2000) finds the frequency of land adjustment and villagers' land contract security to be positively correlated.

A great deal of literature is therefore focused on the weaknesses existing in China's collective land system, but with little consideration of their causes. This can be understood in terms of the historical development of collective land ownership as summarized in the next section.

### **Congenital flaw: Re-thinking the nature of collective land ownership from an historical perspective**

The collective land system in China began after the Land Reform Movement period in which the Communist Party and the state were preparing for socialist transformation. At the end of 1951, the Central Committee of the Communist Party (CCCP) of China issued a notice "Mutual aid and cooperation in agricultural production decisions (Draft)". This provided agricultural mutual aid and cooperation in the form of simple labor cooperation, mutual aid groups and agricultural producers' cooperatives. On 16 December 1953, the CCCP also released its "Decision of the Central Committee of the Communist Party of China on developing agricultural producers' co-operatives", requiring the developed agricultural production cooperatives to combine with the state-owned socialist economy in supply, production and marketing, to be gradually incorporated into the national economic plan.

On 9 November 1955, "The draft model charter of agricultural production cooperatives" provided the further development of agricultural production and cooperation, dividing it into primary and advanced stages during which the conversion of farmers' private land ownership to collective ownership increased more rapidly. In the primary stage, the document announced that

... we will phase out land compensation to commune members, and farmers' other means of production will gradually be transferred to be collectively owned, by purchase or other mutually beneficial ways until, finally, the cooperatives' production and sales plans will comply with the national production and acquisition plan.

The advanced stage, promulgated in the 30 June 1956 "Advanced agricultural producers cooperative demonstration charter", provided that the farmers must transfer private land and draught animals, large farm tools, etc., and other main means of production to be collectively owned by cooperatives; agricultural producers' co-operatives must align the cooperative's interests with the interests of the state; and the cooperatives must also operate under the guidance of the national economic plan. In this way, the land of all the farmers eventually became collectively owned in law.

In contrast with capitalist countries, China's collective land ownership system is therefore not a naturally evolving phenomenon, at least not at this stage of its history. It is a system designed by a group of powerful and totalitarian leaders based on their experience and desire to realize the communist cause. From the start, the collective land system was designed for a purpose. Analyzing this purpose is helpful in understanding its fundamental nature.

Collective land ownership comprises two layers of connotations: the organized group of villagers of three different levels - which is the *noumenon* subject of collective land ownership - and the representative committee to exercise their land rights - which is the practical *phenomenon* of collective land ownership. During the People's Commune period

(1958-mid-1980s) the collective land system became a three-level ownership by the commune, a 'production brigade' and production teams (original owners) (Ho, 2003). The commune was represented by a Commune Management Committee the main tasks of which were to carry out central policy. This Committee put forward suggestions for the production plan to the production brigade based on the national plan and the specific situation of the production brigade. After the transition of the production brigade, production teams were responsible and must complete the production task through organized work issued by the Committee or administrative zone. This highlights the state's powerful control over the Commune Management Committee's ability to represent the villager collective's voice and, as a result, the Committee completely represented the state's voice instead.

One reason for this system is China's prioritization of the development of heavy industry at that time. In the presence of an extremely weak industrial system, the capital needed for the development of heavy industry had to be obtained from agriculture. According to relevant statistics, from 1958 to 1962 China's annual national purchase proportion of food was as high as 33%, especially in 1959 (the grain crop had reduced that year), the grain purchase proportion as high as 40% (Ministry of Agriculture of the People's Republic of China, 1989). The state's annual purchase of economic crops such as cotton was at an even higher percentage rate of more than 90%. The state purchase proportion of vegetable oil was as high as 66.56% per year. Although the state did compensate the villagers, the price was far below the market price that would have been achieved by private transaction (Xin, 2005). As Bernstein (1984) points out, due to its highly focused industrialization strategy, the commune system enabled the government to redistribute resources to industrial development at the expense of the agricultural community.

Since the early 1980s, the system has changed little except in terminology. 'Communes' are now 'townships', 'production brigades' 'administrative villages' and 'production teams' 'natural villages/villager groups' (Ho, 2003). The three-level ownership management system made it possible and convenient for the state to control the farmers' agricultural production behavior. As Guo (2006) points out, the People's commune is a form of system arrangement made by the state with the purpose of controlling agricultural surpluses to support the heavy industry development priority strategy. In practice, the village collective's existence must follow the economic dictates of the government to some extent. This explains the claims in some studies that the fundamental purpose of collective land ownership is to construct an authoritarian pipeline for obtaining agricultural resources by denying individual private ownership of land and full collective land ownership rights directly (Lee, 2009). By this reasoning, the state deliberately transfers land ownership to a hapless collective, in order to eliminate the original private land ownership. Thus, it has removed the resistance and obstruction of the land occupiers to the state ingesting the fruits of the land.

The emphasis on production and industrialization, however, is decreasing in favor of a greater focus on improving social welfare – as Chairman Deng Xiaoping on "Build Socialism with Chinese characteristics" on June 30, 1984 famously maintained, always the major long-term objective of China's political aspirations once economic prosperity has been established. As these priorities change, the collective land system is becoming increasingly

anachronistic. The legal restrictions on the use and disposal of collective land also bring into question the likely long run success of collective land ownership from the beginning of its existence. It is for this reason that we define the collective land system as congenitally flawed. However, it seems this congenital flaw may have played a more complicated role in terms of the historical and comprehensive development of China's economy and society, as appraised in the next section

## **Historical appraisal and current difficulties with the collective land system**

### *Historical appraisal*

The land system is a critical link in many of China's system arrangements, such as fiscal and taxation systems, the household-registration system, food circulation system and social guarantee system. As one of the most fundamental institutional arrangements, the urban rural dual land system has played an important role in the country's urbanization and industrial development (Choy et al., 2013), achieving high speed development for as long as 35 years without any obvious major social unrest.

The current collective land system in China was established in the late 1950s. In the process of developing its market-oriented economy after the *Reform and Opening-up* policy, China has set up the 'separation of two rights' land system by giving land use rights to individual villagers. Compared to the egalitarian distribution system in the Commune Period, this 'separation of two rights' land system has greatly inspired enthusiasm for production and promoted the combination of land and labor resources. As a result, agricultural efficiency, grain production and the income of the villagers have all greatly improved (Qu et al., 1995). One main disadvantage of the commune system now is the 'free-rider' problem, which the egalitarian distribution system allows people to enjoy other people's work achievements without paying any price. The privatization of land use rights has eliminated the free-rider problem observed under the commune system (Wen, 1995).

As for the China local government's widely criticized land transfer system, under which rural land is forbidden from being put to non-agricultural use and can be sold to developers only after being expropriated by the government, it can be seen as a state-steered social wealth mobilization movement. Under China's modern land supply system, the extra revenue from local government land-related finance (mainly by selling land) has been used to carry out a series of large-scale construction projects in China. As Qian comments, it is this "Chinese-style Fiscal Federalism" that has been the main cause of the rapid development of China's economy over the last 30 years (Montinola et al., 1995, Qian and Roland, 1998). Economist Zhou has also given a detailed analysis of this phenomenon in one of his papers (Zhou, 1995).

At the same time, however, the "shell" of collective land ownership has been retained, which helps to safeguard social fairness and plays a key social stabilizing role. The "Contracting Authority", the most important disposition right of collective land ownership, was established in the *Land Management Law* (revised in the National People's Congress 1998). The collective can sign land contracts with its members so that surplus rural labor and

villagers in the farming slack season can find a job in the city. In China, however, a person's social welfare benefits are closely linked to residence status within the *Hukou* system<sup>2</sup> (Wong et al., 2007). Rural migrant workers, popularly known as the "floating population" or *liudong renkou* (Liang & Ma, 2004), cannot have access to the same level of social security benefits, housing subsidies and access to high quality education for their children, as people who are officially classified by the Hukou system as 'urban residents' (Wang, 2004). This encourages many migrants to retain vacant rural housing and idle rural land in order to be able to return home if necessary (Long et al. 2012). When migrant workers cannot find work in the cities, their collective members' identity still entitles them to a portion of land. Provided they maintain their identity as a member of the collective, they have the right to use a portion of the collective land for farming and residence to secure their basic living needs. As Du's (2008) case study of rural households in four villages in Jiangsu and Gansu Province revealed, the collective land in rural areas not only provides the means for agricultural production and agricultural employment opportunities, but also plays a rural social security function. Although this function differs between areas, the difference between households is very small. For the villagers, simultaneous engagement in both agriculture and other industries without relinquishing land is generally the optimum choice to maximize effectiveness (Yang and Dennis, 1997). This mobility of the working population provides a large amount of cheap labor and reduces the cost of urban development. According to the Ministry of Health and Family Planning Commission's "China Floating Population Development Report 2014", the total amount of the national floating population of 245 million (including 170 million migrant workers) by the end of 2013 accounted for more than 1/6 of the total population, with a GDO contribution ratio of up to 23%.

The collective land system has therefore made a great contribution to China's development over the last 35 years - the system of "publicly-owned and privately-used" having promoted the efficiency of China's economic development while maintaining basic social justice. The current system has therefore helped China go through a "peaceful" industrial revolution without any large-scale social unrest in a phase of incredible rapid urbanization that has become known as "the China Miracle" (Dattolo, 2004).

#### *Acquired irrational weakness: current difficulties*

Rapid industrialization and urbanization have greatly changed China's rural areas in terms of loss of cultivated land and transformation of labor for rural workers (Long, Zou and Liu, 2009). As a result, modern China has many social problems relating to the collective land system in rural areas. The system has been criticized as leading to low land use efficiency (Liu et al., 1998); the villagers' short-term destructive investment in agricultural land (Li, et al., 1998); having an outdated land expropriation compensation system, unfair sharing of land incremental value (increase in value after the urban development projects have been realized); an overreliance on local government land-related finance; diminution of

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<sup>2</sup> *Hukou* (户口) is China's household registration system. People are classified into either agricultural or non-agricultural *Hukou* groups.



social justice; and the healthy development of the economy (Mullan et al., 2011). In short, the collective land system is obstructing development and economic efficiency as well as diminishing social justice and stability.

In terms of *development and efficiency*, firstly, the Land Management Law dictates that villagers have fixed term rural contracted land use rights (30 years). Therefore, they have to face the risk that their land may be redistributed at the end of the fixed term. Studies show that there are many cases of land re-adjustment in the contract period (Brandt et al., 2002) and the existence of long-term land contracts is often not a sufficient condition to ensure tenure security for agricultural households (Krusekopf, 2002). Secondly, with rapid urbanization, the villagers, especially suburban farmers, face the risk of deprivation of their land rights due to expropriation, which also inhibits long-term investment in agricultural land (Jacoby, 2002). Thirdly, under the current collective land system, the local government is a monopolistic supplier in the primary market of urban land (Qian and Zhu, 2008). In order to maximize revenue from sales, local governments can deliberately restrict the supply of urban land on the market, thus reducing the efficiency of commercial and industrial development.

In terms of *stabilization and justice*, the current land expropriation system has led to a form of drifting social wealth among members of society, which has helped to enlarge the gap between the rich and the poor – a wealth gap that already poses a significant threat to China's equitable and stable social environment (Zhang, 2014). A primary cause of this is the compensation mechanism, which can result in the villagers being paid as much as 300 times less than amount the government receives from the sale of the land (Li, 2007), as compensation is based on the land value for agricultural usage while the latter is based on the land value for commercial or industrial usage<sup>3</sup>. Understandably, this has led to the strong dissatisfaction of the dispossessed villagers and is very much out of keeping with the times in modern China, where emphasis is increasingly placed on social justice (Shen, 2014). Although local governments do invest a large part of their revenue from land expropriation into municipal construction and other relevant projects, it is the urban residents who enjoy most of the benefits involved with scant reward for the villagers and villages (Guo, 2001). Further, restrictions on the market entrance of collective land has pushed up housing prices in urban areas - currently a major social problem in China, as the primary buyers are those most in need of housing and less able to pay (Xu, 2015).

In summary, it is clear that China's unique system of collective land ownership and its congenital flaw have made a great contribution to the development of China in the past. It is being challenged, however, by a modern society more concerned with social efficiency and

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<sup>3</sup> According to Article 47 of the Law of Land Administration of the People's Republic of China, compensation fees for land requisitioned include land compensation fees, resettlement fees and compensation for attachments to or green crops on the land. The land compensation fees are 6-10 times the average output value of the 3 years preceding the requisition of the cultivated land. The resettlement fee is calculated according to the number of agricultural population to be resettled. The number of agricultural population to be resettled is calculated by dividing the amount of cultivated land requisitioned by the per capita land occupied of the unit whose land is requisitioned. The resettlement fees for each agricultural person to be resettled are 4-6 times the average annual output value of the 3 years preceding the requisition of the cultivated land, but the maximum resettlement fee per hectare of land requisitioned cannot exceed 15 times the average annual output value of the 3 years prior to the requisition.

fairness, development and stability. The growing social problems related to the collective land system indicate that reforms are needed. To identify the nature of such reforms involves answering two questions: Should the collective land system should be retained or replaced? If it is to be the former, what changes should be made? If the latter, what form should a new rural land system take?

### **Are radical changes needed?**

There are three representative viewpoints in China's current academic circles concerning the reforms needed for collective land ownership. These are to privatize, nationalize or maintain the *status quo* of collective land ownership. The privatization view is mainly held by economists such as Prosterman and Hanstad (1990) and Cai (2005). The nationalization view, on the other hand, is represented by Zhao (1996) and Zhou (2004). The third viewpoint is to modernize and improve the current collective system. Most Chinese scholars think the current rural land rights system under the framework of collective land ownership is suitable for social production and basic national conditions at the present stage of China's development. Some studies have argued that China currently lacks the complementary institutions that are required to make land privatization successful. Poorly developed credit markets, the lack of a land registration system and an immature legal system means that privatization at the current time would be inefficient and possibly cause even greater social instability (Dong, 1996).

In considering implementing the radical changes demanded by the first two viewpoints, three questions need to be addressed – Are they necessary? Are they feasible? and Do their benefits exceed their costs? Firstly, from the point of necessity, radical critics point out that the collective land system has many defects, such as the time-limited villagers' land rights, outdated and inefficient farming practices, the inefficient distribution of land resources and low agricultural income of villagers. These viewpoints are not entirely convincing, however. On the one hand, these problems are not necessarily caused by the collective land system but rather by the absence independent institutions that enforce the rule of law in local China (Zhang and Donaldson, 2013). On the other hand, even if the collective land system is to blame, it does not mean it cannot be fixed within the existing collective land system. For example, efficiency problems could be solved by confirming land rights, stabilization of contracted land use rights and extending of the range of land that can be transferred. Land privatization supporters simply demonstrate the advantages of privatization and the disadvantages of collectivization, without providing any specific plans of how such land privatization may be implemented in current China. As Meng (2010) points out, land privatization supporters have never carried out any rational research into the current land system or put forward practical implementation plans that would deal with the social unrest caused by conflicts of interests among the villagers. Perhaps, as Ho (2014) suggests, more attention needs to be paid to practice and utility instead of the more esoteric arguments over nationalization and privatization, pointing out that the Chinese rural lease system (insecure tenure) is the outcome of its present function. In the current absence of sufficient alternative

employment outside agriculture, and in the absence of a state-supported social welfare system, the agricultural land-tenure system effectively continues to function as a safety net for farmers.

Secondly, there are many doubts concerning the feasibility of land privatization in China under the current political regime. Being a country where the base of its economic system is the socialist public ownership of the means of production, privatizing land (one of the most important means of production) will be extremely difficult if not impossible without redefining what it is to be socialist. Neither is the nationalization of land suited to China's current national circumstances considering that since the adoption of the *Reform and Opening Up* policy, the sense of private property rights of villagers is continually strengthening. This makes it unlikely that villagers would now be prepared to accept transforming the “shell” of collective land ownership to a concrete state land ownership. A further issue is that land nationalization plans may need local governments to provide compensation, which would be difficult to finance. Even if this problem could be solved, or circumvented, the management costs of state owned rural land after nationalization would be huge.

Thirdly, land privatization will not necessarily bring the advantages of large-scale, specialized, standardized and efficient agricultural production enjoyed in countries such as the US. Rural per capita arable land is currently approximately 3 mu<sup>4</sup> in China. Considering the dwindling rural population along with the likely urbanization process in the future, rural per capita arable land is unlikely to ultimately exceed 5 mu. This differs greatly from the world agricultural scale management model of the U.S., for example. The American agricultural population in 2011 was 5.04 million. The arable land in America, on the other hand, is around 24.4 million mu, with a per capita arable land of agricultural population of around 484 acres, more than 100 times that of China<sup>5</sup>! Therefore, neither in terms of the scale of rural arable land nor in terms of the scale of migrants from rural areas to urban areas, can there be enough for China to develop the kind of large-scale farming as is carried out in the United States. In contrast, land privatization may have considerable disadvantages. For example, widespread private land ownership may make rural land become a “hunting field” in modern China with a huge gap between the rich and the poor. As the regional economy and urbanization have developed so quickly, uncontrolled pillaging from capital predators may result in the villagers losing the protection of their living completely, which would be a considerable threat to the stability of society.

### **Collective land system in China: the way ahead and how to improve it?**

#### *Establish a new transfer mechanism for potential collective construction land*

Urban construction land supply in China is under increasing pressure due to the country's rapid development of urbanization. In the meantime, a large quantity of potential construction land in rural areas remains unused, resulting in a massive resource waste. However, current

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<sup>4</sup> Mu (亩), Chinese land area unit equivalent to 0.0667 hectares.

<sup>5</sup> Data sources: China Statistical Yearbook and International Statistical Yearbook, National Statistics Bureau.

legislation strictly forbids such land entering the real estate development market, a situation which Ma et al. (2008) for example, believe to be inappropriate, unrealistic and irrational due to the strong practical need for urban land and that, to date, the reform gains have far outweighed the costs involved.

In seeking to find improvements to the situation, several possible measures are immediately apparent. Of particular interest is the possible marketization of potential buildable collective land. In terms of ‘right and price’, this would make such land equal to state land. *The Decision on Major Issues Concerning Comprehensively Deepening Reforms* released in the 3rd Plenary Session of 18th CPC Central Committee in November 2013 was to “Form a construction-land market that unifies urban and rural areas. Allow the sale, leasing and demutualization of rural, collectively owned buildable land under the premise that it conforms to planning”. The enactment of this is still at the primary stage, however, and several aspects (e.g., the transferring process, transaction platform and allocation of interests) still need to be trialed through pilot projects.

Meanwhile, the right of transference of home sites can be implemented to some extent. China's urbanization is now increasing by approximately 1.4% annually (Lu & Wan, 2014). Based on this rate, 10 million new job opportunities are required per year for cities to maintain the floating population involved (Taylor, 2015). The population in rural areas is decreasing. Meanwhile, some of the labor force return to their homelands when there is lack of work in metropolitan areas and it is necessary to provide these people with a place to stay at that time. Considering these two factors, it seems the marketization of house sites will most likely help optimize the allocation of resources. This being so, the process could be promoted as follows:

- A. Considering the public welfare nature of rural homesteads, which are freely distributed by the collective according to China law, strictly enforcing the “one household, one home site” principle.
- B. Confiscating the home site if the owner has:
  - a. a permanent urban residence certificate;
  - b. a stable non-agricultural income;
  - c. a stable habitation; and
  - d. stayed outside the village for a long period.

Being no different to general urban residents, owners should not enjoy a free homestead and the confiscation of a home base of this kind will not adversely affect their normal life. Houses on the homestead should therefore be provided and compensation made to the owners in accordance with the market price for its future use.

- C. For migrant workers with a stable non-agricultural income and who work in urban areas for most of their time, the collective should retain their homestead, as such migrant workers often return to the village on holidays. The villagers should be endowed with rights of rent, mortgage and transfer with a time-limited agreement for transference based on the principle of integrated land and residence, to promote the full use of rural land resources and provide additional income for the migrant workers.

*Complete the land rights verification and consolidation work*

As villagers currently have a fixed period contractual right of land use, they are therefore reluctant to make long-term investments in farmland and sometimes even exploit the land in a predatory way. On the other hand, individual village households are increasingly involved in land disputes mainly caused by the lack of legal support of land use rights (Wen, 1995). A longer term and more stable new property-rights arrangement would prompt villagers to increase investment in land protection and reduce land disputes. In order to avoid the frequent transference of contracted land and especially the damage to both social and agricultural efficiency due to the increased subdividing of its management, the rights of villagers over their contracted land need to be strengthened. Most needed is a land rights registration and certification system based on detailed cadastral surveys as this currently involves 26 million parcels of homestead and collective construction land rights, which generates a very heavy workload done manually<sup>6</sup>.

In addition, the relatively large wave of migrant workers that return home indicates that urbanization has not yet reached a stable stage and there is still a need to maintain the 30-year cycle contract system in order to absorb those that fail to achieve full employment in the cities and provide them with a degree of social security. In the future, when urbanization has stabilized, the period could be increased to, say, a 100-year cycle, as improved farmland efficiency will then be more important than its social security role.

#### *Endow villagers with more rights to enjoy the land incremental value*

As He (2013) points out, the construction land planning control system in China has raised the price of urban land, increasing the incremental value of its conversion from agricultural use. Under China's current land rural-urban land transfer system, the recipient of incremental land income is the government and hence the nation. However, this creates problems for the dispossessed farmers, as they typically receive little compensation and can easily find themselves both landless and unemployed. Social conflicts arising from state land expropriations have also significantly intensified in the past decade (e.g., Cao et al., 2008).

To solve these problems, there firstly needs to be a narrow and strict control of the scope of land expropriation. Currently, the only legitimate reason for expropriation is the public interest. The public interest should therefore be identified more strictly in the China context. Since land expropriation is abused in some areas, the related principals should exercise strict control over actions that are designed for personal benefit. Land assignment should also be limited to assisting major public construction projects. In addition, the land expropriation procedures need to be improved to ensure that farmers have a full right to know and participate in the process of land expropriation, to effectively minimize conflicts and disputes, and reduce the possibility of social conflicts.

Secondly, a new mechanism needs to be established for the distribution of land incremental income. For incremental income obtained through change of land use, the government could establish an independent account, from which special funds could then be

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<sup>6</sup> [http://oa.ahxf.gov.cn/village/Content.asp?WebID=24133&Class\\_ID=113544&id=985720](http://oa.ahxf.gov.cn/village/Content.asp?WebID=24133&Class_ID=113544&id=985720)

allocated according to the different circumstances of the people involved. Generally, this allocation can be divided into four parts:

A. One part to the government to subsidize government revenue. As the government is the main representative of the public interest and public landowner, it should share some "public part" surplus of land value-added benefits based on its huge public infrastructure investment and management related to land development (Cheng Zhou, 2006).

B. One part to private enterprises to encourage their investment. Enterprises participating in the allocation of land value-added benefits can strengthen the development of land and promote a prosperous land market.

C. One part to the dispossessed villagers involved. Based on land development rights, the land lost farmers are entitled to a share the "private part" land value increment, obtaining adequate compensation and resettlement. These include fair compensation for the loss of land use rights and land development rights, which amounts to the sum of the social security costs of the farmers' employment, pension, medical and unemployment benefits (Shao, 2010).

D. The remainder to be allocated to the dispossessed villagers' community. As the representative of the collective land ownership, based on its land management and development rights, the collective should also share some "private part" of the land incremental value, including compensation for the management rights of the collective land and the industrial and commercial land development value (Zhou, 2006).

The precise proportions of these four parts would be determined based on the local situation, but would necessarily involve a substantial expansion of the current proportion of the dispossessed villagers and their associated communities.

## Conclusions

The debate over what is seen by many to be the increasingly anachronistic system of collective rural land ownership and transfer in China is becoming increasingly volatile. This concerns the system's effect on the country's social and economic development; uneven development of the countryside; and the changes needed improve land use efficiency and social justice. This paper analyses the historical source of the collective land system and its fundamental nature to provide a comprehensive appraisal of the strengths and weaknesses of its role and the challenges it faces in modern times.

China's unique collective land ownership system has been a major contributor to the country's outstanding development achievements. The principle of "Efficiency comes first, balances fairness" proposed at the beginning of the 1978 *Reform and Opening Up* policy implementation, has promoted social economic development and a rapidly improved international status. Despite this, the gap between rich and poor has widened over the intervening years, which makes the problem of economic equity one of the most conspicuous issues in China today and the focus of all sectors of society and policy makers. As *The Report to the 17th Party Congress* urges, "Pay more attention to fairness in the process of redistribution." Efficiency and fairness is a paradox, however, as too much attention paid to

one is to necessarily detrimental to the other. With collective land ownership, for example, the time limit of the contractual right of land maintenance improves social justice but reduces the productivity of agricultural land. Local government land-related bounty promotes the construction of social and economic investments but leads to the inequitable distribution of social wealth – a vitally important issue for a socialist country such as China.

From this, it is clear that the rapid progress of urbanization and consequent massive demand for industrial and commercial land together with existing restrictive controls on the transfer and conversion of rural to urban land is creating a range of problems. For example, the economic value of some people's land is uncertain (ie., some or part of their land is underused or redundant) while there are many other people who are sorely in need of land but unable to acquire it due a variety of institutional factors. The situation is also hindering the development of the nation's economy because of inefficient land resource allocation.

The current increasingly serious social problems relating to the ownership of collective land indicate the need for a systemic change, a conclusion that is mutually recognized in both intellectual and government circles in China. Suggestions for such change fall into the two radical camps of abandoning the land collective in favor of either full privatization or nationalization and the more conservative calls for a modified *status quo* in which the land collective is retained. Here, we argue for the latter approach in the form of a correction mechanism and provide some suggestions for its possible implementation. Meanwhile, many local governments are exploring ways to break through or circumvent the obstructive institutional factors currently involved, giving consideration both to economic and social benefits. All these point to the legal endowment of the villagers' land usufruct and disposal abilities as being the most important change needed – moving the villagers' land usufruct closer to private land ownership. Whether this will in due course turn out to be the solution China is seeking and, if so, how this will eventually square with the socialist ideal of the collective productive use of land resources, remains to be seen.

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