

Land Tenure Dualism in China: How the Dichotomy between State and Collective Ownership Has Shaped Urbanization and Driven the Emergence of Wealth Inequality

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Introduction

Those with even a passing familiarity with China will be aware of two deeply significant developments there during the past decade : 1) the rapid growth of inequality over the past twenty years in what had been one of the world’s most egalitarian societies, and 2) the government’s embrace of rapid urbanization as its core modernization policy. This article examines the major role played by China’s dualistic land tenure system in these two developments, upon which it has had critical intended and unintended impacts. The article first discusses the nature of dualism, a dualism which is both economic and legal, as it involves implementation through law of an economic development policy. The article then turns to a discussion of tenure dualism and its role in China, especially in relation to urbanization and the growth of inequality. It goes on to discuss the Land System Reform announced in 2013, which has as one of its stated objectives the gradual unification of the two tenure systems. How is it likely to affect, and be affected by, the current land tenure position. The conclusions shed light on the core principles behind Chinese development policy and contribute to our understanding of legal and economic dualism from a comparative perspective.

Land Tenure Dualism

A “dualistic land tenure system” refers to a land tenure system¹ within which there co-exist two different and subsidiary land tenure systems, each applicable to some portion of the land resource.² In the Chinese case, this dualism involves two forms of public ownership, the first state ownership, empowering central government with regard to urban land, and the second collective ownership, empowering local communities with respect to rural land.

Dualism in land tenure is not unusual around the world, and is not unique to China. But the form it usually takes is quite different from the Chinese system of dual public ownership. Tenure dualism is most common in post-colonial contexts, which include almost all developing

¹ A land tenure system refers to a system of property rights in land and buildings (realty) and the institutions that support and administer that system, considered as an integral part of the social and economic systems of the polity.

² Dualism is a type of legal pluralism, which often involves more than two such land tenure systems. Dualism is one type of pluralism.

countries, and in which colonial legislation has placed under a western form of property portions of land destined for citizens of the metropole. Typically, the colonial government accomplishes this by nationalizing blocs of land and then granting it in western property forms, sometimes private ownership and sometimes in long-term leaseholds, to its own citizens. In almost all colonies this includes most urban land, and in “settler colonies”, it includes large blocs of rural land, often the best of such land. Lands not yet required for use by colonists are left in the hands of indigenous inhabitants of the colony, and managed under their customary tenure systems.

The colonial state very often did not formally recognize rights under those customary tenure systems. Rather the ownership of the land was considered to have vested in state by right of conquest. Landholders under custom were treated as having “usufruct” or “use” rights under custom or a very limited right of possession by virtue of occupation. Such rights did not include transferability, and colonial law discouraged the development of transferability that would normally occur in a market economy. Denied marketability, such rights do not acquire market value. They can thus be taken by the colonial government, as needed, for transfer to the store of land under western property forms, and for little or no compensation of the customary holders. Customary land tenure rules, which are normally dynamic and evolving, are frozen in time and thereby indigenous farmers are denied greater tenure security and access to capital. These disabilities, coupled with more direct discriminations such as legal prohibition of indigenous farmers growing crops that compete with settler farmers, ensures the continued economic marginality of these areas and their continued supply of labor to the farms and mines in the favored, western tenure sector.

Tenurial dualism of any kind is quite rare under socialism. In the former Soviet Union all land – urban and rural – was state owned. Agricultural land might be farmed by state farms or collective farms, but was all state-owned land, allocated to those farming enterprises by the government. Most socialist states have followed that model; Yugoslavia is an exception, exhibiting a private-public dualism. But in no case, at least so far as the author has been able to ascertain, is or was there a public/public ownership dualism similar to that which exists in China.

China’s public/public ownership dualism, as indicated earlier, makes urban land state land and most rural land collectively-owned. Painting with a broad brush, the two ownerships are as follows: First it is necessary to understand the system being reformed. Painting with a very broad brush, the dualistic system of land tenure has been:

- 1) Urban land is owned by the State and long-term use rights are sold to users for a one-time up-front price. Often those users have already been in occupation of the property under administrative allocation as employees of state enterprises, and the purchases are part of a privatization plan. In the case of “new” urban land (rural land absorbed into

expanding municipalities), the initial purchasers are often developers who construct high-rises and sell the units. Urban use rights are freely transferable, can be sold or sub-contracted. No rent is charged by the municipality, and no real estate taxes levied. The rights can be used to secure loans. Profits for developers have been impressive and as the value of those use rights has risen rapidly, they have made a major contribution to the growing wealth of urban households.

- 2) Rural land is owned by the rural collectives created through the dissolution of the communes after 1978. These collectives, villages or collections of villages of varying size, are managed village institutions dominated by Party cadres. They allocated land to member households, reallocating land periodically to maintain equality as family sizes changed. Gradually, reallocations – especially general reallocations – have become less common, and since 1990 a two-thirds vote of the village assembly has been required to approve a reallocation. A variety of reforms extending terms and documenting rights have over the years created relatively secure long-term user rights, but there are tight restrictions on both use changes and transfers of rights in the various categories of rural land (farmland, forest land, grassland, and construction land, the last including residential land). National food security concerns have led government to tightly regulate conversions of agricultural land to construction uses. Rural land values are low, even near cities, because there is no legal market in those rights that can recognize their value for any use other than agriculture.

Roughly two thirds of rural land is owned by local collectives, and consists of the irrigated and hillside farmland, as well as small community forests and commons. Rural land which is not owned by a collective is state land. In 2014 state-owned land accounted for one-third of China's rural land, including mountains, forests, grasslands, wetlands, and land historically under state cultivation, for example the state cotton farms in Xinxiang in the northwest or the great state forests in northeast China.

How did China arrive at this particular tenure dualism, as unusual as it is? It's the result of an interplay of history, practicalities and ideology. In 1949, upon its taking power, the Chinese Communist Party (CCP) did not immediately pursue the state ownership of land as a means of production called for by ideology. Instead, the new CCP government launched a land-to-the-tiller land reform program, transferring ownership of the land to farmers. Most commentators, including those with recent privileged access to Party documents, agree that it did so to gain the loyalty of the many hundreds of thousands of soldiers who had been de-mobbed after the surrender of Japanese armies in China at the end of World War II.

But by 1953, the Party was convincing households to pool their land and work them collectively, first as work teams, and then as larger cooperatives. By 1956, the cooperatives' land was merged to create huge communes, and in 1958, private land ownership of rural land was legally

abolished. The land was considered the property of the communes, though that ownership was never clearly defined in law. In the case of urban land, land was gradually shifted, by category after category, to state ownership. The last privately owned urban land was gone by the end of the Cultural Revolution in 1976. Holders of urban realty received use rights, which were to gradually be strengthened over the years.

But a remarkable reversal takes place twenty years later. The CCP had been shaken by

- the dismal production record of collective agriculture,
- the disaster of the Great Leap Forward, and
- resultant famine and near-famine conditions in many parts of the country,

and weakened by

- the vast disruptions of the Cultural Revolution,
- the political turmoil stirred by the Gang of Four in Mao's last years,
- the death of the Great Helmsman, Chairman Mao Tse-Tung, in 1976, and
- ascension to power of a new collective leadership, still weak and finding its feed.

The new government accepted, initially as a temporary expedient, a "Great Reversal" of the rural land reform process of the 1950s. Driven by local initiative, the communes were over a few years broken down into smaller and smaller units, and finally to the production team or brigade level, with the land allocated to families to farm. This was the Household Responsibility System (HRS) of land tenure, in which households farmed under contracts from the Department of Agriculture and were required to supply quotas of basic food products to the state, but were free to retain and sell non-quota crops and amounts of quota crops produced in excess of the quotas. They produced in excess of specified quota to be supplied the state, diversified their crops and dramatically increased agricultural production and improved their own welfare. The production teams and brigades, the land management units, were redefined in policy and law as "rural collectives" and became the owners of their land through a series of party directives. It was only in 1982 that a new Constitution enshrined legally the collective ownership of rural land and state ownership of urban land.

These "two pillars" of Chinese land tenure, the two public ownerships, have been stable in law and practice for over 30 years. But the rights that individuals and households can hold within those ownership forms, have been strengthened, though in quite different ways. In urban areas, an initially fuzzy use right has evolved into an inheritable, marketable 70-year lease from municipalities as representatives of the state. This is a right to a rapidly appreciating asset and the basis of the wealth of most urban residents who hold them. In the rural areas, the HRS contract, which initially provided precious little tenure security to farmers, has evolved into

inheritable leases of thirty to seventy years duration (fifty years for farmland), defined as a property right in the 2012 Property Law. It is not, however, marketable, except very recently and in very limited circumstances. Lacking a market price, the value of farmland was and still is administratively defined, based on a multiple (usually 12 years) of the value of its agricultural production. This is the basis for compensation when land is requisitioned (the term used in China for expropriation) by government for its own use or for development projects.

Dualism, Land Value and the Windfall

The arrangements described above create an artificially large disparity between the values of rights in urban and rural land. Urban land rights, because land is scarcer, will be more valuable, and more valuable still because its value is set by the market. Rural land will be less valuable. But the full import of this duality is not clear until one considers that a) these two property types, as parcels of rural and urban land, exist side-by-side at the municipal's boundary with surrounding rural collectives, and b) that municipalities expand by requisitioning (expropriating) rural land. Think about the implications of this for a moment. As in China, urban land in market economies is more valuable than rural land, because urban land is more limited and demand for it is stronger.

But in China, the value gradient looks different from that in a market economy. If one plots out the value change along a transect on a map, one will usually find a gradual increase as one moves outward from the city center through suburbs and eventually into farmland. In the Chinese case, however, when the line on the map crosses the municipal boundary, the price falls off a precipice. In the case of two identical parcels of land, side by side at the border, the value difference is startling; the urban parcel will be worth five, ten, twenty, fifty or more times the value of the rural parcel. This is the result of China's tenure dualism.

Municipalities have been able to expropriate and absorb rural land as new state land for quite modest amounts over a quarter century. Often such compensation was paid to the collective, and not the farmers. Some portion, a small portion, might be given to landholders but much of it disappeared into locally-funded development projects which were supposed to create employment to replace farming, but only delivered jobs to those who actually lost land only in some cases.

What has been called China's "cheap rural land" policy is a direct consequence of Mao Zedong's ideas on building communism in a largely agrarian state. Very simply stated, Mao considered that in a largely agrarian state seeking to build communism, the Party is unable to rely on an urban proletariat and industrial revenue; instead, it is the peasantry and agriculture that must produce the surplus with which to build the future. That policy of extracting value from rural China to build modern, urban, industrial China has been remarkably resilient and has left its

mark in many policy realms. The role of tenure dualism in this context has been to ensure that rural land remained undervalued, readily available for urban and industrial uses, and at the same time to provide, at the moment of the change from rural to urban land uses, the opportunity to extract major value from rural China for the benefit of urban China.

Indeed, that gap in value between rural and urban land and the revenue that tenure conversion could create have never been more critical to China's development than in the past two decades. Changes in public finance in 1994 created new interests and motivations. Until then, China's central government had left a very large portion of tax revenues with the municipal and provincial governments that collected them. But in 1994 central government significantly altered the apportionment of that tax revenue between local, provincial and central government, increasing dramatically the share that had to be sent on to central government. Municipal and local government remained responsible for many of the services which they had been performing prior to the finance reform. Some sources have suggested that local government, including municipalities, now receives 48% of local tax revenue but is responsible for 77% of public expenditure in their communities. Municipalities have since 1994 had to fend for themselves.

They did so by developing off-budget revenue, principally through rapidly expanding sales of urban land rights. In a system first systematically implemented in Shenzhen in 1989, the municipality would:

- 1) Implement urban expansion through expropriation (the Chinese term is often translated in China as "requisitioning") of adjacent rural land;
- 2) Pay very modest compensation to the rural owner and users of that land;
- 3) Convert that land to state land, allowing recognition of its real value by the market; and
- 4) Capture most of that value through sale of use rights to that land at far, far higher prices, to urban land developers or individuals.

When the public revenue reform of 1994 hit municipalities, municipalities around the country embraced this model of revenue generation enthusiastically. It had been a source of revenue for municipalities before, but now, as cities began to grow more and more rapidly and demand (and prices) for urban realty increased, city officials kicked requisitioning of rural land into high gear. Dualism was now leveraged as a municipal revenue generation tool. Much of the new urban land was requisitioned from farmers at low levels of compensation, often not more than 15–20 percent of the prices the converted land fetched on the market (UC 27). The revenue generated was huge and, happily for municipal administrators in this period of growing corruption, off-budget.

Surprisingly few Chinese commentators have questioned the notion that the municipality was entitled to capture almost all this increase in value. The municipal argument in China, as elsewhere, is that the municipality, through its investment in facilities and services, is largely responsible for the higher value of urban land rights. The response of landowners in market economies is that they bought the land as an investment and, like a stock owner, are entitled to the value of its appreciation. In the West, the farmers' argument has largely prevailed; owners get the benefit of the appreciating value and municipalities tax the land to get their share. That investment argument is not available to the Chinese farmer, who was administratively allocated the land. He can argue his actual investments of labor and modest capital investments, but Chinese law does not recognize this. A more compelling argument, in the view of this author, would be that, the value of his land having been held artificially for decades by the dual tenure system, he in fairness deserves to share substantially when that value finally rises to something closer to its actual market value.

So how large was this tenure conversion and the resultant financial windfall for municipalities?³ From 2005 to 2011, 27,000 square kilometers of rural land were requisitioned and converted to urban state ownership. From 2008 to 2013, rural land requisition increased sharply to 4,460 square kilometers annually. The sale of use rights in the new state-owned urban land during 2005-2011 generated 50-70% of municipal revenue. In 2010, the total government revenue from the reported sales of expropriated land in the 120 largest cities in China reached roughly \$300 billion. The resultant windfall in municipal revenue has enabled a dramatic expansion of urban infrastructure -- even overinvestment in infrastructure -- in recent years. It has funded an urban transformation and largely created what we think of as "modern China". And as suggested earlier, it has in the process shaped urbanization in important ways, to which the article now turns.

Dualism-Fueled Urban Expansion

China's urbanization over the last three decades has been unprecedented in scale: 260 million migrants have moved to cities from rural areas, supporting the country's rapid economic growth and development progress. China's urban population rose from less than 20 percent of the total in 1978 to 52 percent in 2012, an increase of more than 500 million people. Over the past decade, China's cities have gained an additional 100 million urban residents. Some 40 percent of the new urban residents became urban because a nearby city expanded to encompass the rural area in which they were living. (World Bank and DRC 2014: xvii, 5).

At the same time, the municipal boundaries have pushed outward aggressively and the urban footprints of the cities have grown very much larger. Between 2001 and 2011, the amount of land in China classified as urban construction land increased by 17,600 square kilometers,

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reaching a total area of 41,805 square kilometers in 2011, an increase of 58 percent over the decade. About 90 percent of the demand for urban construction land was met through the expropriation of rural land, while only 10 percent was supplied from the existing stock of undeveloped urban construction land. The process accelerated rapidly. Until 2008, roughly 3,000 square kilometers a year were requisitioned. From 2008 onward, annual rural land requisition increased sharply to around 4,460 square kilometers. From 2005 to 2011, a total of 27,200 square kilometers of rural land was requisitioned and converted to state ownership (World Bank and DRC 2014: 27).

Rapid urbanization has facilitated an unprecedented economic transformation in the past 30 years, which catalyzed China's brisk GDP growth and pulled more than 500 million people out of poverty. A key driver of China's success was the decentralization of decision making to local governments, which started in 1980 (World Bank and DRC 2014: 6).

But rapid urbanization has also introduced serious distortions into the economics of urban development. "Cheap land" for urbanization has created strong financial incentives for municipalities to expand into rural land rather than to intensify the use of urban land, enlarging their "urban footprint". "The incentives for local government to expand the city rather than develop existing underused urban land are strong: requisition of rural land and sale for commercial and residential purposes yield a large windfall gain for the city finances. In contrast, requisition of urban land is more expensive and cumbersome, because urban residents and enterprises have stronger property rights." (World Bank and DRC 2014: 10).

That expansion has placed serious pressure on farmland, threatening the "red line" of 1.8 billion mu of prime farmland, as well as the principle that for every bit of farmland that becomes construction land, new farmland must be created. As a result of these conversions, the availability of agricultural land is now close to the 1.8 million mu (120 million hectares), the "red line" that is considered to be the minimum necessary to ensure food security (.UC 27 (World Bank and DRC 2014: In 2014, China's Development Research Center and the World Bank concluded in their *Urban China* {World Bank & DRC 2014: 27} that:

- Land requisitioned substantially exceeded the increase in urban construction land. Land requisitions had become delinked from real demand for urban and industrial land or infrastructure needs" and were being driven by municipal revenue needs.
- Expropriated land had been going into "land banks" of municipal development corporations, and used to secure municipal borrowing.

The current arrangements, they conclude, are being abused and are not sustainable. The solution, they recommend (World Bank and DRC 2014: 27) is to slow land conversion. Urban sprawl, the rapid growth of low-density areas at the urban periphery, has led to congestion of transport arteries, contributed to pollution, and increased resource use and carbon emissions.

Now cities should become denser rather than larger, for reasons of efficiency. Rural construction land, still abundant, could become the main source of new urban land.

As will be seen when this paper shortly discusses the Land System Reform, the Government is moving, incrementally, in that direction. It is hard for municipalities to wean themselves from the so-called “land-dependent local public budget” (*tudi caizheng*). Municipalities developed a dependency on land revenue for 50% and even larger percentages of their revenue, and though this has declined in recent years, it is a dependency which Government has declared unsustainable. Borrowing against banked land has contributed to municipal debt, a major concern in China today, and the need for revenue to pay debt has become a further reason why municipalities hesitate to lose their land-related revenue.

To deal with the specific problem of excessive reliance on expropriations and tenure conversion to generate revenue, the World Bank and the DRC (2014: 35) recommend 1) reforming land management to encourage more intensive urban land use, increasing farmer land rights and registering them, moving gradually toward a unified land registration system; 2) clarifying that collective ownership is a form of coownership by the members of the collective, and spelling out rights more clearly; 3) more narrowly defining “public interest” as a basis for expropriation, and moving from expropriation to market mechanisms for moving rural land into urban uses. This in aid of raising rural land prices; they conclude that “Land pricing will play an important role in the densification of cities. For China’s 35 largest cities, rapid increases in urban land prices correlated with greater increases in density; that is, low land prices lead to urban sprawl” (World Bank and DRC 2014: 11). To replace the duality-driven revenue, municipalities are to institute a property tax on urban land, a stable, sustainable source of finance which should further encourage densification of land use and leave more land for environmental services and agricultural production (World Bank and DRC 2014: 4).

Dualism-Fueled Wealth Inequality

The dual tenure system has also played a major role in driving the growing wealth inequality in China. The inequality, now exceeding that in the United States and most European countries, has been noted by scholars and commentators with concern. Government figures suggest an income Gini co-efficient of .49, the Livelihood Survey of Beijing University .67. Relying on these and additional data sources, Xie and Zhou (2014) conclude that China had reached an income Gini coefficient in the range 0.53-0.55 by 2012.

Rural-urban contrasts explain a significant amount of this income inequality. Yang (1999), working with data from two provinces, concluded that increases in rural-urban income differentials have been the driving factor behind the rising overall inequality in China. Working with 2010 data, Xie & Zhou (2014) conclude that about 10% of the overall income inequality in China can be attributed to differences across the rural-urban divide. They attribute a significant part of the rapid growth of income disparity to “long-standing government development

policies that effectively favor urban residents over rural residents.” Unpublished recent calculations by the World Bank suggest even higher levels: rural–urban differences accounted for 40 percent of total income inequality in 2003, a percentage similar to that in 1995. Changes in rural–urban inequality accounted for 47.4 percent of the increase in inequality between 1985 and 1995, contributing more to inequality than interprovincial, intra-rural, or intra-urban inequality (World Bank 1997). Sicular et al. (2006) found for a subset of provinces in 2002, rural–urban differences explained 25 percent of overall income inequality.

But before going further into the discussion of rural/urban wealth, it is important to be clear about a number of points on wealth in housing and land. In both urban and rural China, housing is owned privately and can be sold, though in the case of rural housing the market is legally limited to community members. In the rural case, the small plot on which a house is located is treated as owned by virtue of ownership of the house, and transfers with the house. That land is not valued separately from the value of the house. But farmland of the household is treated as a separate source of wealth and rural statistics list housing and land as separate categories of wealth. Housing is generally valued more highly than land simply because land has not had a market value. In urban areas, most housing consists of occupant-owned apartments and these have a significant, ascertainable market value. But the value of the land on which the apartment building is located is not considered in assessing the value of the apartment. The role of the land is to provide location, and that location is reflected in the market value of the apartment itself. Apartment owners are not considered to possess a share in the ownership of the land on which the apartment building rests, though they will in some cases have fractional interests in the commons areas of the apartment building itself.

Wealth inequality has risen even more rapidly than income inequality. Previous research found that the wealth Gini coefficient was 0.45 in 1995 and 0.55 in 2002 and reached 0.73 in 2012. Household wealth was weakly correlated with income and was more unequally distributed than income. Xie & Jin (2015: 4-6, 14) found that: 1) China’s richest 10 percent owned 62 percent of the total national wealth, while the richest 5 percent owned more than 50 percent; 2) the wealth Gini coefficient of China was 0.73 in 2012, as contrasted with the income Gini coefficient of 0.53-0.55; 3) in 2012 the richest 1 percent owned more than one-third of the total national household wealth, while the poorest 25 percent owned less than 2 percent, and 4) housing assets, which accounted for over 70 percent, were the largest component of household wealth. As is usual in other countries, assets are even more concentrated than income, and in China this top 10% of households is estimated to own 85 percent of assets, whereas they earn 57 percent of total income.²⁴ This places China’s wealth inequality near the top by international comparison (World Bank and DRC 2014: 16).

Differences in income between rural and urban China cannot fully account for the wealth differences noted. Something else is going on, and that something else is housing, the main component of household wealth and the principal contributor to growth of household wealth in recent decades. Urban and rural areas have, as in the case of land tenure, been on quite different policy reform tracks, and this has contributed greatly to the rural/urban wealth divide.

In pre-reform China, work units, or *danwei*, provided housing as a form of fringe benefit, the quality of which largely depended upon a *danwei*'s administrative rank assigned by the central government as well as a worker's administrative rank within the *danwei* (Xi and Xie 2014: 279). Under the doctrine of the "socialist market economy" adopted in 1993, in July 1994 the State Council issued the "Decision on Deepening Urban Housing Reform", which discussed sale of public housing to existing users. In 1998, the State Council issued the "Directive on the Further Deepening of Urban Housing Reform and Accelerating Housing Construction", and called for completion of the privatization of all housing for state employees.

To facilitate this process, a housing provident fund (*zhufang gongjijin*) was created (Sato 155). This was an employer-subsidized savings program for the purchase of housing. The average price paid for current homes in one sample was close to 50% of the current estimated market price (Walder and Xiaobin 2014:92). Sato et al. (2013: 161) conclude that the subsidy program was clearly the core of the process that transferred public property into private wealth. Key groups excluded from that process were those in private business and urban migrants who lacked urban *hukou* (Sato et al. 2013: 161). By the year 2000 most transitional economies had urban home ownership rates of 80% or above, much higher than the 50–60% typical of developed market economies (Walder and Xiaobin 2014: 86).

Access to privatization programs was relatively equal across urban residents in state sector occupations, which was at this point the majority of urban residents, and this transfer of value to the urban civil service helped create China's new urban middle class (Xi and Xie 2014). But elite state employees did better than others in this privatization process. Housing had been a leading determinant of social inequality even prior to the economic reform. The housing reform preserved the old form of inequality by allowing *danwei* to sell existing housing units to their residents at subsidized prices. They ended with more valuable properties due primarily to their prior allocations of newer and higher quality apartments. Determinants of inequality in housing values include position in the official hierarchy, the importance of the work unit involved, its endowment with properties, and how liberal a subsidy program it provided (Xi and Xie 2014: 280).

Many studies analyze the housing privatization as a case of the creation of a "new class" through privatization of public resources, similar to that first discussed by Djilas (1957) in regard to Yugoslavia. The China case is somewhat different. The privatized properties were widely distributed and the class created was a middle class. But at the same time, the findings of several key studies (Tomba 2004; Logan et al. 2010, and Walder and Xiaobin 2014: 20) suggest windfall gains for elite occupations, based largely in previous privileges in the earlier system for bureaucratic distribution. These were however modest windfall gains, based on the elite officials having receive one or two more valuable houses.

A process of concentration of the ownership of urban housing is now underway, though it has not yet appeared in available statistics. In recent years, the growing official corruption has seriously infected the privatization of remaining state housing, including that of the military; newspaper articles during the current crackdown on official corruption often feature tales of

dozens of privatized apartments found in the hands of a corrupt official. And it is worth mentioning the effects of the one-child policy, most rigorously implemented in urban areas. At its most dramatic, two parents who participated in privatization and each obtained an apartment have one child who marries a spouse whose parents also each have an apartment; The one child of that marriage stands to inherit four apartments.

At national level, housing assets accounted for over 70 percent of household wealth. This is not surprising. In the absence of other opportunities to invest, depressed by lack of confidence in the banking system and the stock market, privately-owned housing has been the preferred investment. Housing occupies more than half of total wealth and makes the largest contribution to wealth inequality. It is the main method of accumulating wealth for the Chinese farmer as well as his urban counterpart (Li 2000: 36). Land in 2005 accounted for 0.77 % and housing for 66.32% of China's wealth inequality (UNDP 2005). Xie & Jin (2015) conclude, together with others who previously examined the issue rigorously, that housing is the main contributor to household wealth inequality in contemporary China (Meng 2007; Li and Zhao 2008; Sato et al. 2013; and Zhao and Ding 2010).

Contrast this with the situation of rural housing. Throughout the Maoist era, rural households were allowed to hold land for housing purposes and were able to own, build, and inherit housing (Sato 161). In rural areas, government's primary housing effort was to prevent the taking of valuable farmland for rural housing. The 1986 Land Administration Law allowed each rural household to hold only one house-building plot, the size of which was to be limited to within the provincial standards (Sato et al. 2013: 163). This is said to have been easier to legislate than to enforce. (See Sato et al. 2013 for a detailed discussion). For our purposes, the relevance of the 1986 law is that it limited the accumulation of wealth in land and housing by rural people, an important limitation in a country where so much wealth is invested in realty.

As in the case of income, there was a marked contrast in levels of wealth between rural and urban areas. UNDP (2005: 35) found that in terms of the distribution of urban and rural population in different wealth groups, most urban residents were in the high-wealth groups while most rural residents were in low-wealth groups. The wealth gap between rural and urban areas contributes a large part to total inequality. That wealth gap is due largely to the fact that 70% of wealth among Chinese families is in the form of housing. Current occupants of a large stock of housing units in urban China paid very little for their housing units. After the housing reform, privatization of housing became the most important driving force for the increase of household wealth in China. Middle-class urban families greatly benefited from both welfare housing and housing privatization, which served as a key factor in generating household wealth for most Chinese families (Walder and He 2014).

Due to housing privatization and the rising prices of real estate, the share of housing assets in household wealth has been increasing over the past two decades. This growth in personal wealth created a higher economic platform from which many urban households leveraged their way to that greater wealth. Housing assets, as the main component of household wealth in

urban areas, have appreciated dramatically in price, reinforcing wealth inequality over time. In contrast, the value of housing assets in rural areas did not increase much.

That trend is consistent with patterns elsewhere; urban housing is more valuable and appreciates more rapidly than rural housing. But in China the difference is dramatic. To understand it, one must understand that those “owning” land and housing in urban and rural areas did so under significantly different property regimes, in both cases as secondary holders under different forms of public land ownership: state ownership in cities, and rural collective ownership in rural areas. It is a difference that has surely allowed urban property to appreciate more rapidly than rural property, but one that also, it is argued here, has conferred on urban areas and their residents -- at the expense of rural areas and their inhabitants -- a vastly superior level of public benefits whose value is hard to quantify..

Is Dualism-Fueled Growth Still a Viable Model?

Government has in recent years concluded that the model of dualism-fueled growth is unsustainable in the long run. It is considered unsustainable because economically, because of recognition of the distortions it is creating in incentives, and its contribution to a dramatic rise in wealth inequality. Environmentally, the model is consuming quota and threatening farmland preservation, considered by government not just a food security concern but a national security concern. In addition it is contributing to growing social unrest. The World Bank and the DRC (2014: 16) note that “... spatial and rural-urban inequality has grown, and social tensions have emerged as a result of the rapid conversion of rural land at below-market value...”. There has been growing resentment among rural people affected by expropriations, as they have learned the land for which they received so little has been sold for so much as urban land. At the same time, the urgent demand for more urban land has stimulated brutality against rural landholders reluctant to surrender their land, and land conflict has become endemic. There are increasingly strident calls for fairness for rural landholders from academic and NGO circles.

Even fiscally, the model no longer appears sustainable. This is due to the growing scarcity of farmland on the urban fringe, extensive informal development of rural construction land near cities, and the development of informal markets in rights in rural land. In recent years, the intensity of land development in coastal cities has increased— by more than 40 percent in Guangzhou and Shenzhen. Those cities have recognized the unsustainability of reliance on rural land for urban expansion. They have implemented institutional innovations to encourage greater use of existing urban land, which has led to less sprawl and more efficient land use. Land sales revenues have been fluctuating and declining drastically in some years. At their peak in 2010, gross revenues totaled 7.5 percent of GDP; however, net of compensation and the cost of land preparation, land revenues are more modest and have declined from 4.2 percent of GDP in 2010 to 1.2 percent in 2012. Higher costs for compensation for land requisition, resettlement, and demolition explains part of the decline: from barely 0.5 percent of GDP in 2008, or 15 percent of gross revenues, these payments grew to 2.6 percent of GDP in 2012, or almost half of gross revenues.. UC 12 Land developers, who often need to pay the compensation, have given the pressing demand for new urban land been willing to pay rates of

compensation which are substantially more than the law requires and perhaps not very different from market value.

The principal Government response to these issues, beyond the immediate urban land management innovations that have been proposed by the World Bank and the DRC, is the Land System Reform, and other interacting initiatives on what is a very full reform agenda. In the following section we examine this reform, which reflects a new policy on the part of Government to better integrate the rural and urban economies and even to merge limited, specified markets in urban and rural land rights. Is this the beginning of the end for land tenure dualism?

The Land System Reform and Related Reforms

In 2013, land reforms were announced during the Third Plenum of the Party that are supposed to mark the beginning of the end for the “cheap rural land” policy. Urban and rural land tenure, some of the documents suggest, are to be ultimately integrated, though the immediate integration is to be quite limited. Rural land rights are to become more marketable and their value will then appreciate, reducing the gap between the value of urban land and rural land on the urban periphery. Rural people, the Plenum documents emphasize, are to be the beneficiaries. Reform along these general lines have been urged for decades by some Chinese policy think-tanks and researchers, and by international development agencies, but ideological reservations and unresolved “how” issues have meant that these reforms have been more than two decades in gestation.

Briefly, the land system reform consists of four elements: 1) gradual introduction of marketability of rural land, reducing disparities in values between urban and rural land; 2) effective unification of the market for rural construction and urban land; 3) registration of rural household land rights, facilitating the development of markets in rural land rights, and 4) reform of procedures and compensation standards for requisitioning of rural land. At the same time, the Government has stressed repeatedly three cautionary “bottom lines” for the reform: 1) land remains public property; 2) farmland is to be protected; the red line will be enforced; and 3) farmers’ land rights are to be protected.

Several key documents articulate and elaborate on these key points:

1. CCP Central Committee Resolution concerning Some Major Issues in Comprehensively Deepening Reform:⁴ In para. 20, in the context of discussion of integrated rural and urban development, calls for continuation of collective ownership of rural land and continued strengthening of household rights, “under... the strictest arable land protection systems” endowing peasants with “the powers of possession, use, profit,

⁴ Passed at the 3rd Plenum of the 188th Central Committee of the Chinese Communist Party on 12 November 2013.

transmission, and mortgage...” Farmers are encouraged to transfer contracting and operational rights to specialized large households, household commercial farms, collectives, and agricultural enterprises, developing a variety of agricultural operations at a variety of scales.

2. No. 1 of 2014 (Rural Work Document). Central Government Document on “Several Opinions on Deepening Rural Reform to Foster Agricultural Modernization:⁵ This document provides in Section III the Government’s strategic directions: Rural land tenure is to be stabilized. Use rights can be transferred and mortgaged. Registration of contract rights is to proceed, funded locally but with central government subsidies. Women’s land rights are to be protected. Most importantly, rural construction land (built-up land with commercial and industrial installations, and the residential land of rural households) is to become marketable “with the same entitlement/price as state-owned land”. Rural residential land management is to be developed through piloting of transfers and mortgaging. Verification and registration of rights is to be speeded up for rural residential and construction land. Land acquisition by government is to be reformed, including changing the compensation methods.
3. Opinions on Guiding the Orderly Transfer of Rural Land-Use Right and Developing Agricultural Operation on an Appropriate Scale (2014):⁶ This document further specifies directions as regards agricultural land. It calls for retention of collective ownership of rural land, but also for measures to “loosen” the land use right for marketability, facilitating larger scale farming operations by collectives, cooperatives and enterprises developing alongside household farming. It is emphasized that land use rights should not be transferred by grassroots organizations against farmers’ will and without their written authorization: “We should prevent a few grassroots cadres from privately accepting land for personal gains.”
4. Opinions on Guiding Healthy Development of Markets for Rural Property Right Transfer and Transaction⁷: Land markets are to be formed at different levels, and these are described as platforms to facilitate transfers of land rights. These offices/facilities may be publically or privately established, but on a non-profit basis. It notes that there are already such markets established for forest and farmland land rights at township and county levels and that these should be used where possible.

⁵ CCCP and State Council, 2014.

⁶ General Office of the CPC Central Committee and the General Office of the State Council. www.xinhuanet.com, Nov. 20, 2014.

⁷ Opinions of the General Office of the State Council, Guobanfa No.71 (2014).

5. Instructions on Pilot of Rural Land Acquisition, Collectively-operated Construction Land Marketing and Residential Land System Reform - Rural Land System Reform⁸: Pilots must be in line with the Third Plenum direction, “adhering to the principle of initiating the pilots first, while ensuring that the nature of state land ownership remains unchanged, the red line of arable land is not broken, and farmers’ interests are not impaired...” The goals of pilot reforms are to improve the land acquisition system with standardized procedures, reasonable compensation and multiple safeguards; to explore a rural collectively-operated construction land marketing system with the same price for same right, smooth transfer and sharing of revenue, and to test out a rural residential land system with fair acquisition according to the law, including handling of residential properties whose holders have moved to urban centers. In the meantime, farmers who move to urban areas should not be required to give up their land. Again, the importance of maintaining the bottom line of 1.8 billion mu of arable land is stressed as a precondition for reform.

Thirty-three land system reform pilot projects have since 2013 been initiated around China. Each deals with some subset of issues under the reform, such as rural land rights registration or reforming compensation in the case of requisitioning. Some pilot are not entirely new; an older project, perhaps a rural development pilot that was dealing with land in an innovative way, may now be reclassified as a land system reform pilot.

Given the ambitious official language about these reforms, it is useful to ask “what is not changing?” A move to full private ownership is explicitly ruled out by the 2013 Party documents. What will be transacted is not land ownership but land use rights. In addition, rural collective land is not being converted to state-owned land. Such a conversion would have been an obvious way to create legal integration of rural and urban land tenure. Instead, rural collective ownership will be maintained. Equally important, the system of land use regulation that seeks to preserve farmland (the ‘quota system’) will remain in place. Indeed the land system reform documents explicitly state that the reform must be implemented within the parameters of the land use restrictions and specifically warns that transactions are not to be used as a means of changing land use in evasion of those restrictions.

The Land System Reform and the Future of Tenure Dualism

What is the relationship between the land system reform and land tenure dualism? Given the material shared earlier in this paper, it should be obvious that there is a fundamental question of the extent to which the land system reform will, by allowing rural land to enter the market, reduce the value gap between rural and urban land, thereby reduce the rural/urban wealth gap, and in so doing, reduce the revenue producing potential of the transformation of rural collectively-owned land into state-owned

⁸ The author has been unable to obtain the official published version of this document, issued by the Central Committee of the Party and the State Council on Jan. 5, 2015. The summary is from the text provided in a Dec.14, 2014 publication: <http://finance.people.com.cn/n/2015/0111/c1004-26363660.html>.

land. Land pricing is a critical tool for reforming urban land management, and patterns of urbanization will be affected by rising land prices. It is too early to provide conclusive answers to those questions, but some indications are available. But to understand them, it is first necessary to understand one further reform, an institutional reform of agriculture.

The Ministry of Agriculture is currently pursuing an agricultural scale reform. It is actively promoting a shift from smallholder farming operations to larger-scale, more mechanized operations. The return to family farming after 1978 produced dramatic increases in productivity and farmer living standards. But as non-farm jobs have expanded, family farming has found it difficult to provide livelihoods comparable with those in industry and other non-farm enterprises. Many rural people have migrated to towns and cities, attracted by not only better-paying jobs but by the better living conditions, amenities and public services available in towns and urban areas.

Where villagers move to nearby towns, they may be allowed to retain their farmland allocations, but where they move to cities, and especially where they officially change their residential status (*houko*) from rural to urban, they may have to give up their land. When one reads in the land system reform documents of increased marketability of rural land and registration of rural land rights to facilitate that marketability, one imagines farmers selling their holdings and taking the money received as a stake for their new life in an urban area. But things do not always go as intended and this is a case where local action by cadres and other community leaders are well out ahead of attempts by central government to control the process. There has been a consistent pattern since the initiation of the HRS began in 1984, for opportunists at local level to move faster and more effectively than the responsible local government officials responsible for implementation.

In this case, while registration of rural land rights would facilitate transactions in those rights, this process seems slow to communities when faced with opportunities to market rights to large blocks of land to large-scale commercial operators. The necessary consolidation of small parcels into larger units is being accomplished not through the market, but through administration consolidations led by village leaders and approved by their communities. There is no consistent government implementation strategy for this scaling up of agriculture, and very different things are happening in different locales. In those cases whether land is administratively consolidated and then contracted out for the long term to a large operator, there are serious risks. Often complex business forms are used, and complex contracts, and the communities may not be well advised. Such transactions are also opportunities for bribery of cadres and other village leaders. In such circumstances, the bottom line that farmers are not lose their land and are to benefit from the reform may be honored only in the breach. Such land may move into the market and take on new value without its rural holders ever benefitting from it appreciably.

One must conclude that the Land System Reform, which is said by Government documents to reduce the duality between urban and rural areas, is an incomplete reform. Under the land system reform as it stands, duality will be reduced but not eliminated. The distinction between

state-owned urban land and collectively-owned rural land will continue to exist. Land right transactions will not be allowed to move land from one use category to another, so land right markets will play no role in changing patterns of land use. This is expressly prohibited, in the interest of farmland protection. The new markets in rural land rights will be segmented by land use, and it is only for construction land that real unification of rural and urban markets are urged.

The reform is incomplete and the continuing duality is reflected in a strategy to leverage that duality to generate funds in some pilots of the new “townization” strategy for urbanization, the face of urbanization in the next decades. While government declares dualism has become counterproductive, the reforms being piloted are incomplete. The preserve a degree of dualism, and with it disadvantages for rural people. By incomplete is not meant incomplete in terms of movement toward marketable rights or private ownership, but rather toward unification. Is this merely incremental land reform, “crossing the river while feeling the rocks”? But it seems clear that there will for the foreseeable future still be two forms of public ownership. And the only area where a really unified market is foreseen is urban and rural construction land. While compensation in takings for urbanization is to be reformed, it is not clear how far this will go. It may provide better compensation for affected rural landholders than in the past, but will likely only reduce rather than eliminate the rural disadvantage, so long as dualism is in place.

There are other indications that tenurial dualism is alive and well, and being leveraged in new ways by municipalities to address new needs. In Henan Xinxiang New Urbanized Community Development Project, a pilot of the townization model, has been in implementation for some years. It involves voluntary consolidation of several clusters of rural villages, destruction of the villages, restoration of the bulldozed village land to farmland, and the resettlement of villagers in new towns near non-farm jobs. The collectively owned rural farmland remains owned and managed by village institutions, holdings remaining with households if they wish, but most villages are consolidating holdings and leasing out a part of their land. The funding strategy:

- ❑ Demolition of village built-up areas and restoration to agricultural use generates “quota”.
- ❑ Quota generated by land restoration must normally be used locally but for this and a few other pilots, is allowed to be auctioned in urban areas.
- ❑ The substantial revenue generated by auction due to higher urban real estate values is then used to fund compensation for demolished homes and other project costs.

This townization model still leverages dualism to generate revenue. Is this sustainable? What if demand for quota falls? The new marketability of rural farmland rights will facilitate scaling up

through collective contracting to larger operators. The urban nature of these new towns is an opportunity to unify the market for town's residential/commercial/industrial real estate with urban real estate markets. But

- Unclear how workable village collective land management institutions will prove in urban context.
- Appropriate town-level institutions have not been created, project filling those roles.
- Both are needed reminders that institutions are an important part of land tenure systems..
- A failure to link this reform to rural construction land pilots under land system reform.

In the coastal city of Shenzhen, a different approach has been taken. Shenzhen has "nationalized" rural collective land to make it urban without expropriation, allowing it to remain collective and respecting members' land use rights. It allows collectives to directly negotiate with real estate developers while government plays the role of land resource manager itself. In the first case of a collective-led transaction, 70% of the land-based revenue was given to the collective by the municipality. Shenzhen captures additional land revenue by collecting various taxes and fees related to land transactions and real estate development, without spending a significant amount of money on expropriation and compensation. This experiment adjusts the allocation of revenue generated by the tenure transition to state owned land, In order to do so, it was necessary to "bend" the legal rules concerning urbanization of land and to establish new opportunities for government, developers and collectives to negotiate. There is an unfortunate lack of data on how households – as opposed to the collectives -- have fared in the experiment.

How do we assess tenurial dualism and its role in the Chinese case? Dualism in land tenure reflects government's desire to program development differently in two areas. It is typically done to create or an advantage to one area over the other. In the colonial situations, dualism existed to privilege citizens of the colonial power over natives, but often survived independence to benefit cities and urban elites. Today, however, unification of land tenure is a declared policy objective in most countries with dualistic systems. In China, dualism has played a similar role, generating revenue to fund urban development. This is consistent with the long-standing policy of building modern China (and urban and industrial China) with funds generated by agricultural development. But as elsewhere, it may have gone on too long...

It is still argued that dualism with its lack of marketability of rural land has protected the equality of rural landholdings and ensured rural household would always have what was both a source of income and a safety net. The same point is made in countries with

statutory/customary tenure dualism, as customary land tenure systems typically prohibit sales. The concern is valid up to a point, but the land-grabbing experience of the last decade suggested that the promised protection of rural land is not reliable. In fact, artificially low land values make rural land a target. Dualism has privileged urban populations, and could be said to have worked too well, to have extracted too much from the rural sector.

What Would Real Unification Look Like?

What would real unification of China's land tenure system look like? Shenzhen and Xinxiang are fascinating, but both still work within the dual framework. There is a need to think outside that box. Would unification mean that the two ownerships need to become one? Not necessarily. What matters is the content of those ownerships: the rights of the land users and their marketability. These would need to be more or less the same for unification to exist. But rules and rights are only a part of tenure; the other part is institutional, the management entity. Municipal land governance/village committees. Should rural collective land become state land? Should a national bureaucracy, a Ministry of All Land, manage a national system of user rights? Or should the urban state land become urban collective land, owned by urban "communities", the basis for a new decentralized system of urban governance? Might there be reasons for the land management structure to be different in rural and urban areas even if the tenure rules and rights are the same?

Conclusion

- 1) Tenurial dualism is a land policy tool. It aims to advantage one tenure sector to the disadvantage of another.
- 2) China is no exception: tenurial dualism has favored the urban/industrial areas over the rural areas, contributing to the building of modern China but also having unanticipated and undesirable impacts, most of them to the disadvantage of rural areas.
- 3) Government has correctly concluded that the time has come – is actually overdue – to address the negative impacts of dualism, especially its major contribution to the growth of gross inequality of wealth.
- 4) The international experience with such dualism and its consequences in today's world suggest that policy-makers need to consider phasing it out.
- 5) The Land System Reform now being piloted aim to reduce the degree of dualism, not eliminate it. Their objectives are more modest than unification.
- 6) At the same time, the pilots remind us that unification is not just a matter of changing rules, but of reworking institutions, and that existing institutions, with their vested interests, often resist change.

- 7) It is time to search the international experience and use of native wit to develop viable unification strategies, to imagine workable models of unification of tenure systems for China, and for China to test them using pilots.

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