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The untold story of Taiwan's land-based financing program - land readjustment or land grabbing?

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Abstract

The land-based finance (LBF) has become an important research topic in recent years. It is "a collective name given to a range of instruments by which local governments expand their revenue base and generate funds that will help them realize their service delivery, infrastructure development and maintenance goals (UN-Habitat & GLTN 2016a, iv)." It argues "the LBF tool is premised on the fact that urban land is a key factor of production and an important source of financing for urban development, including infrastructure, social housing and basic services (UN-Habitat & GLTN 2016a, iv)."

The instrument of LBF includes not only many different kind of taxes and charges, sale of development rights and public lands, but also urban land readjustment (UN-Habitat & GLTN 2016a, 14; UN-Habitat & GLTN 2016b; Peterson, 2009; Valerie, Alorro & Goliath, 2017). Urban land readjustment (ULR) is one of the major ways in Taiwan's LBF programs; historically, it does collect great revenues for local governments. In addition to ULR, zone expropriation (ZE) is another special instrument used in Taiwan. However, the untold story is that they all create many serious social problems because it deprives property right and human right from landowners. Many protests have emerged since last several years.

On the surface, to advance public interest has become the major reason to implementing ULR and ZE. Then, who own the power to define public interest for ULR? It shows that the power is almost controlled by the alliances among local government, local political factions, and those big conglomerates; unfortunately, landowners and citizens nearly do not have power to reject plans of ULR and EZ. Even though ULR and EZ are welcomed for some landowners because the increase of land prices through upzoning some landowners are forced to leave their homes and communities. The ULP and ZE have become a major way for land grabbing and forced eviction in Taiwan.

Key Words:

Land-based Finance (LBF), Urban Land Readjustment (ULR), Zone Expropriation (ZE), Land Grabbing, Human Right.



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Preface

The ULR¹ is recognized as an excellent tool for LBF and city development, and it has been implementing in Taiwan's major cities for around 60 years. According to the Minister of Interior, there are 1,010 ULR cases till the end of 2017. The total areas are 16,615 hectares. Within them, the land areas that the government receives for public infrastructure, for example road, sewer, ditch, park, school, are 5,610 hectares. In addition, the land areas that can be constructed, the building land, is 10,675 hectares. The government proclaims that the ULR has saved around NT\$9,411 billion (around US\$31.37 billion) for the public because it does not need to pay money to get those lands.² The ULR in Taiwan can be classified into two different types: ULR by public authority (ULRPA) and ULR by private sector (ULRPS). The total ULR area in Taiwan of former is 13,224 hectares, and the latter is 3,392 hectares till 2017.

The major benefits for local government relating to ULR include: (1) get land for public infrastructures freely; (2) get land for sale in order to recover implementing cost of ULR; (3) increase land taxes because of upzoning in the ULR areas, which includes land value tax, house tax, and land value increment tax (UN-Habitat & GLTN 2016a, 154-5; Tsui, 2008). For example, the total ULR areas in Kaohsiung city from 1958 to 2006 are 2,593 hectares, and the city receives 967 hectares (37 %) of land for public infrastructures freely. And, the area for building land is 1,626 hectares (63%), which belonging to landowners and the city, separately. Local government then can sale those land it owns after ULR and to make great fortune. For example, the Kaohsiung city government announces that it receives NT\$104.9 billion (around US\$0.35 billion) through auction of those building lands belong to the government.³

In addition to ULR, the other special instrument used in Taiwan is zone expropriation (ZE). The government regulates that all expansion of urban planning areas, or reassignment of farmland or protected zones as land for construction in the nonurban planning areas, must be achieved through zone expropriation, which is one kind of land expropriation (or eminent domain, taking). Zone expropriation allows the government to expropriate large areas of farmlands and subsequently make huge profits by auctioning it off or selling it by tender. The government defines zone expropriation as public-private land

¹ In Taiwan, the term of land readjustment is the same as land consolidation.

² <https://www.land.moi.gov.tw/chhtml/content/71>. retrieved at 2019/2/13. (in Chinese)

³

https://landevp.kcg.gov.tw/mobile/detail_2015.php?id=391&mid=0&auth=155c559a6270e1c2c75971b48602db9b. retrieved at 2019/2/13. (in Chinese) The land for sale included those land received through zone expropriation, which will be explained later.



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development, not as land expropriation. Since the land prices have raised because of upzoning by the government; therefore, the government argues that landowners receive great fortunes. The government then asks that landowners should surrender part of their land to the government. It is approximately that land owners must donate around 1/3-1/4 of their land to the government.

According to the Minister of Interior, there are 122 cases of ZE till the end of 2017. The total areas are 9,480 hectares. Within them, the land areas that the government receives for public infrastructure, for example road, sewer, ditch, park, school, are 4,359 hectares. In addition, land areas that can be constructed, the building land, is 5,112 hectares. The government proclaims that the ZE has saved around NT\$4,374 billion (around US\$14.58 billion) for the public because it does not need to pay money to get those lands.

For example, the Tainan city government proclaims that there are 277 rezoning cases through the mechanism of Urban Planning Overall Review from 2011 to 2018. The approval for these rezoning cases is mainly because the city asks them to be developed by ULR or ZE. The city can then create 572.7 hectares of building land. The city government says that it does create NT\$2,603 billion (around US\$8.67 billion) market value for the society, and much of the value is belong to the government.⁴ This is why ULR and ZE are popular in Taiwan.

Indeed, local government receives great benefits from the ULR and ZE, and the government always proclaims that ULR and ZE are the best way to promote economic efficiency of land use and urban development. To propaganda the great advantage of ULR the National Geographical Channel even produces a documentary film for Kaohsiung city in 2018.⁵ However, on the other side, there are also many untold stories related with Taiwan's ULR and ZE. It is because the ULR and ZE are not only instruments for LBF but also closely related with power and interest. Who own power to decide the implementation of ULR and ZE? Can landowners say no to it? Can the ULR and ZE be justified only by its financial contributions to local governments? These are important questions should be explored. This question does related with political and economic development of Taiwan.

Political and Economic Development --- From Authoritarian to Corporatism

⁴ <http://news.itn.com.tw/news/local/paper/1211511>. retrieved at 2019/2/13. (in Chinese)

⁵ <https://www.nownews.com/news/20180908/2955725/> (extracted in 2018/10/10). The title of the documentary film is "Innovative City: Kaohsiung" (in Chinese).



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The development of Taiwan was controlled by the authoritarian Nationalist Party (or Kuomintang – KMT), which maintained a lock on political control over the island from the end of World War II until very recently. The KMT regime has mainly pursued economic growth since 1960, and the land has been basically treated as a productive base for industry and economic development. The result is that Taiwan is commonly touted as an economic miracle because of its rapid economic growth over the last several decades in the twentieth century. Indeed, the numbers are impressive. For example, the gross national product of Taiwan annually increased an average of 8.7 percent from 1953 to 1982. During the peak years 1963-1972, the country's GNP averaged an extraordinary 10.8 percent increase per year. Trade surpluses occurred nearly every year from 1970, and foreign reserves amounted to \$7 billion in 1980, \$15.7 billion at the end of August 1984, nearly \$76 billion in 1988, and \$72 billion by February 1991.

The high economic growth rate is ascribed by Ranis (1992), Fei, Ranis, and Kuo (1979), Kuo (1983), Amsden (1985), Gold (1986), and Clark (1989) to the government's single-minded policy focus on economic growth. In this regard, the state has been identified as the key growth-promoting institution. Thus, Amsden argues that the state in Taiwan played the leading role in the process of capital accumulation. She argues "to understand Taiwan's economic growth, therefore, it is necessary to understand its potent state (1985, 78)." Gold has reached the same conclusion: "any explanation of Taiwan's growth with stability must start with the national party-state (1986, 122)."

After allowing opposition parties – especially the Democratic Progressive Party (DPP) – to share the political stage since the late 1980s, the KMT tried to strengthen its political position by focusing on relations with capitalists and local political factions. Tending to the needs of its business partners and local political factions, it was able to remain the dominant force in Taiwan's political system. An island in the grip of political authoritarianism found itself gradually yielding to corporatism after political controls eased.⁶ Under corporatism, the state relies on close alliances with large industrialists, big conglomerates, and local political factions to maintain its hold on political power. Even though the DPP has become the ruling party the political structure does still keep on corporatism.

⁶ According to Schmitter (1974), corporatism can be defined as "... a system of interest representation in which the constituent units are organized into a limited number of singular compulsory, noncompetitive, hierarchically ordered and functionally differentiated categories, recognized or licensed (if not created) by the state and granted a deliberate representational monopoly within their respective categories in exchange for observing certain controls on their selection of leaders and articulation of demands and supports (93-94)."



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The political structure of state-corporatism was already resident in Taiwan before the late 1980s. The KMT had organized a comprehensive corporatist structure to represent the major sectors of Taiwanese society through government-controlled farmers' associations, trade unions, industrial and commercial chambers, and local political factions. Nevertheless, the relation between these sectors and the state was not corporatist at that time, but more like a patron-client relation. The single-party state was the powerful patron with access to all of the society's resources and could dispense them to clients in exchange for their political support. Since these clients were protected by the state, they were unwilling to challenge the state and, in any case, did not have the power to do so.

This relation of patron-client gradually transformed as the challenge of the opposition movements springing up from civil society in the mid-1980s left the state with little choice—either to crackdown but with unpredictable political consequences or find some means to compromise. Finally, the KMT was forced to make political concessions as a result of the combined pressure of social dissent and restive capital. The state has increased its cooperation with the country's major capitalists, and major capitalists have been elevated from their earlier status of clients to junior partners (Wang 1993, 89).

How to improve the domestic investment environment for capitalists in order to revive Taiwan's economy has become the most important goal for the government, especially after the financial tsunami in 2008. Both of the central and local governments have proposed many Big Plans. They have tried to remove obstacles to major private investment projects. The big business conglomerates and local political factions have become major partners with the state in their pursuit of Taiwan's economic growth. Although many local protests have emerged concerning the environmental deterioration or land expropriation, the government still tries to use its hegemonic power to supply them with land at prices that are much cheaper than the market value. Regrettably, many important meanings and values of the land are all discarded because of power domination.

Land Use Planning, Urban Land Readjustment, and Zone Expropriation

Land in Taiwan is classified into two major categories: urban land, non-urban land. The government plans to subdivide each of these categories into several land use zones. For example, urban land can be designated as agricultural, residential, commercial, or industrial, and etc. Urban land is regulated under the *Urban Planning Law* while non-urban land falls under the *Regional Planning Law* [with the MOI designated as the competent authority for both land types]. The central government and local



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governments basically control the power of land use planning. Ordinary citizens have little input in land use planning and control. They may submit their opinions to the Urban Planning Committee on a given urban plan within 30 days of its announcement, but submissions by regular citizens are seldom given any weight in the final decision-making process (Chen, 1991).

With the gradually shift from authoritarianism to corporatism in the 1980s, local factions and the big conglomerates have been able to exercise their political power to influence land use planning toward their benefits. Land prices can skyrocket if their land use is upzoned from low-market-value to high-market-value use. Examining land development in the Taipei County in the 1980s and 1990s, Chen (1995) concludes that the state, local political factions, and big conglomerates control land use planning. Citizens and local communities are excluded in this system, which is fraught with graft and corruption.

On the other hand, government finances in Taiwan are in serious jeopardy, but instead of imposing higher taxes on the wealthy to boost revenue, the rich are given tax breaks, tax exemptions and other economic privileges. Land-related taxes such as the land value tax (地價稅) and land value increment tax (土地增值稅) should be the main sources of tax income for local governments. They are similar to property tax in the US society. However, tax rates of them are much lower than the US society. Local governments in Taiwan are always in the serious condition of fiscal deficit. So where else is the funding for much needed infrastructure projects to be found? The answer is to use LR and ZE to prop up land development. In this context, it is hardly surprising that how to collect more tax revenue and land base finance becomes the focus of much policy debate. In addition, those in power can also utilize land development projects to co-opt local politicians and political factions, thereby killing two birds with one stone.

The reason local governments are using every means possible to turn farmland into urban land is that farmland is not taxable and as such brings in no revenue to local governments. Farmland can be located at urban planning areas or non-urban planning areas. The ULR is used when conversion of farmland located in the urban planning areas. After the ULR, local government can receive tax benefits since those lands are no more classified as farmland. In addition, it is because the implementing cost of ULR should be pay by landowners themselves. Landowners therefore should donate parts of their land to the government to pay back those cost. The government then can sell those land in the market to receive great benefits. In addition, ZE is used major in the nonurban areas.



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Because the government has the final say when it comes to land use planning, many urban planning districts have been continually expanded and more designated areas are being established near industrial and science parks. As a result, urban planning has gotten out of hand as local governments exaggerate population numbers and use falsified data as a pretext to turn farmland into urban land. At present there is approximately a difference of more than 7 million between fabricated population numbers and the actual population. Although there is still much unused land in industrial and science parks, meeting the needs of these exaggerated figures creates the false impression that construction on this land is necessary. The government has deliberately established such a distorted mechanism to expropriate land because it can then carry out its own land development agenda and significantly increase revenue intake.

Deprivation of Human Rights

It is most regrettable that the strict regulations and guidelines that should govern ULR and ZE have been willfully pushed aside, and that the basic property rights and human rights guaranteed by the Constitution have been neglected. As a result, the members of one of society's most disadvantaged groups – farmers – are being forced to bear the burden of funding infrastructure construction and financial needs of local governments.

According to the National Constitution private property shall be protected (Article 15), and it "shall not be restricted by law except by such as may be necessary to prevent infringement upon the freedoms of other persons, to avert an imminent crisis, to maintain social order or to advance public interest (Article 23)." Then, "to advance public interest" has become the major reason to implementing ULR and ZE, and therefore to deprive private property from landowners. Then, who own the power to define public interest for ULR and ZE? What kind of institutional mechanisms to decide ULR and ZE's public interest? They are *the Urban Planning Law, Regional Planning Law, the Equalization of Land Rights Act, and the Land Expropriation Act*. Local government must propose three plans, which are urban plan, ULR plan, and ZE plan. Even though these three plans must be approved by the central government the power is almost solely controlled by the local government, which defines the meaning of public interest. Unfortunately, landowners and citizens nearly do not have power to reject these three plans, they can only agree with the local government.

What is so important about property rights? This is because it involves human rights and is not a



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simple matter of how much money compensation is offered. Many nations view the issue as one involving human rights and one that needs to be strictly observed. The 1793 *Declaration of the Rights of Man and Citizen* that emerged from the French Revolution specified that property “is an inviolable and sacred right.” This became one of the most important propositions of the time and was later adopted by constitutional democracies. The second chapter of the Republic of China Constitution – *the Rights and Duties of the People* – was also influenced by this idea and has similar stipulations.

Aside from involving the balance of wealth, property right is also intimately related, and inseparable from, the right to life and liberty. In other words, there is an absolute relationship between individuals’ right to life and liberty and their right to own property and to use it, or dispose of it, as they see fit. It follows, then, that in violating people’s property rights, those responsible for forcibly stripping them of their land are also denying them their rights to life and liberty. This concept has been repeatedly emphasized in the Council of Grand Justices’ constitutional interpretations on the matter – *Interpretations 400*,⁷ *739*⁸ and *742*⁹ being cases in point. The issue of how much compensation is to be paid is, of course, important, but whether these URL and ZE violate human rights guarantees are even more so.

Both of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) have become Taiwan's domestic laws in 2009. The International Review Committee has come to Taiwan to have its second review in January 2017. In its Concluding Observations and Recommendations the Review Committee is very concerned with the issues of ULR and ZE. for example, it says:

The Review Committee continues to be concerned about the frequency of evictions and land dispossessions that are occurring in Taiwan. The processes of expropriation, urban land consolidation, urban renewal and other policies are leading to violations of housing and land rights across the country. The Committee is also concerned about ‘private-led’ land consolidation and zone expropriation that leads to forced evictions.

And more,

⁷ https://www.judicial.gov.tw/constitutionalcourt/p03_01.asp?expno=400. retrieved at 2019/2/13. (in Chinese)

⁸ https://www.judicial.gov.tw/constitutionalcourt/p03_01_1.asp?expno=739. retrieved at 2019/2/13. (in Chinese)

⁹ https://www.judicial.gov.tw/constitutionalcourt/p03_01_1.asp?expno=742. retrieved at 2019/2/13. (in Chinese)



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The Review Committee is concerned that legislations such as the Land Expropriation Act, the Urban Renewal Act, the Regulation of Urban Land Consolidation, the Regulations for Urban Land Consolidation Led by Land Owners and the Disposal Guidelines for Occupation of State-Owned Real Estate of Public Use contain provisions that are not human rights based and are being used to dispossess people and communities across Taiwan. The Committee recommends that all local and national legislation that has a bearing on housing and land policy in the country be amended to comply with Taiwan's international human rights obligations.

Many social protests against the ULR and ZE have emerged in recent years, and it has become one of the major partners of Taiwan' Land Justice Movement¹⁰ (Hsu, 2017). The movement is against land grabbing and forced evictions, especially for those disadvantages. The ULR and ZE implemented in Taiwan do deprive human right for local citizens, and they are quite different from the Participatory and Inclusive Land Readjustment (PILaR) argued by the UN-Habitat:

Conventional land readjustment does not necessarily operate in favour of the poor; too often, the municipal government, working only with formal landowners, imposed decisions on local communities. PILaR differs from conventional land readjustment in that it is participatory. It involves all stakeholders - landowners, tenant, informal residents, the municipal authorities, land professionals and community organizations - in planning and making decisions. It is also inclusive; it ensures that the poor and disadvantaged also benefit. It aims to achieve consensus among all stakeholders and avoid forcible removals or evictions. (UN-Habitat & GLTN 2016b, xiii)

In addition, PILaR is "based on human rights and aims for a pro-poor, gender-sensitive outcome (UN-Habitat & GLTN 2016b, 14)." Unfortunately, the ULR in Taiwan does not participatory and inclusive as PILaR suggests (UN-Habitat & GLTN 2016b). and it seriously deprives human right especially for those poor and powerless. Unfortunately, the ULR has become land grabbing, and this is the untold story that this paper would like to explore.

Deduction of Multiple Meanings of Land

LBF is proclaimed as one of the major ways for urban sustainable development. There are many different approaches within LBF, and ULR is one of them. In Taiwan, the government frequently

¹⁰ The other major partner is the movement against the eminent domain and zone expropriation.



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implement ULR to solve its problem of financial deficit. In addition, ZE is also used, especially in the rural areas. However, it is very important to know that there are many different values related with land. It can be utilized as an economic factor contributed for national and local economic growth; it can also be recognized as natural resources, which should be preserved for this and future generations. A piece of land or a community can also be a specific place for human identity. The relation between human and place cannot be separated in this sense. A subjective and valuable sense of place is also very important for land use policy and planning. Thus, several people could define variety meanings of land. This is what Ali Madanipour, Patsy Healey and Angela Hull (2001, 6-7) maintain:

The notions of space are complex concepts. [S]uch complexity requires a dynamic, multidimensional approach, which would capture complexity without the need for excessive reductionism.... The tradition in the planning field has been to treat space and place as unproblematic, as part of an obvious reality, often as a surface on which things happen. Much work in the social sciences challenges this assumption. Increasingly, a distinction is being made between the inherent spatiality and temporality of all relations, and the meanings which are given to particular qualities of specific 'places'. In a diverse society, transected by all kinds of relations, with multiple connections in space and time, places are not 'singular' in the meanings given to them. They are given different meanings in different relational contexts. Place and territory thus relate to both a materiality and an identity.... Social reality in the city is a sum total of a congregation of people and material objects that create cities and a rich patchwork of meaning that people assign to this material reality. These representations and meanings, however, are not singular but multiple.

Several researchers have agreed the multiple meaning of land. For example, John Agnew (1987, 28) dissects land or place into three major parts. He says:

Interwoven in the concept of place ... are three major elements: *locale*, the settings in which social relations are constituted (these can be informal or institutional); *location*, the geographical area encompassing the settings for social interaction as defined by social and economic processes operating at a wider scale; and *sense of place*, the local "structure of feeling."

In addition, David Herbert and Colin Thomas (1997, 252-253) also argue:



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Urban environment is a broader concept than built environment; it has economic, social and political significance which affects people in varying ways. The social environment of the city can be divided into the impersonal and the personal. Impersonal social environments are objective and can be measured by indicators of demographic structure or social class, personal social environments are subjective and rest on values, attitudes and forms of behaviour. The concept of spatiality, with its concerns with the production of space and the ways in which it reflects social values offers a link between the built and social environments of the city. Urban environment, then, forms a backcloth against which people live their lives. It is not a simple concept. It includes built form, it is imbued with values and meanings, it is multilayered and is a 'palimpsest' in which the past is partially overwritten by the present.

It is because land has so many different meanings for different people. The embodiment of the land use planning, ULR, and ZE should take these different meanings into consideration. This is why Shutkin (2000, 22) indicates that "the best kind of American environmentalism fundamentally entails a holistic approach to environmental problems in that those problems and their solutions are seen as inextricably linked to social, political, and economics issues." Members of a particular geographic and political community should be included in planning process to ensure a future that is environmentally healthy and economically and socially vibrant at the local and regional levels. Unfortunately, because land use planning is a matter of the distribution of benefits and burdens, those who hold the most power tend to receive the most benefits. Those without political or economic power tend to bear the brunt of environmental burdens, contaminated land and buildings.

Bachrach and Baratz have argued "power is exercised not just upon participants within the decision-making process but also towards the exclusion of certain participants and issues altogether" (Qtd. in Gaventa, 9). Exclusion occurs through the mobilization of bias in the political process. High socioeconomic status groups can dominate political decisions not only by direct participation in the political system but also by the structural exclusion of the less powerful groups. In addition, public officeholders also favor those dominant groups because they are motivated by a desire for career success (Stone 1980). Stone further indicates that elite groups have a contextual or situational influence on political life, and it is embedded in the social structure and is removed from open competition among groups and politics in the public view. Land use planning, ULR, and ZE therefore cannot reach a holistic status because of the bias of power domination.



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Conclusions

The experiences of ULR in Taiwan do show its lack of multiple values of land. Although it collects great financial benefits for local governments it also seriously deprive human right, especially for those farmers and powerless. The ULR in Taiwan is probably unsustainable for urban development. The United Nations has published *Land and Human Rights: Standards and Application* in 2015, and it is important to bring human right into ULR consideration. It is also indicate that the PILaR proposed by UN-Habitat in 2016 is very important if we still want to implement ULR in the future.



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