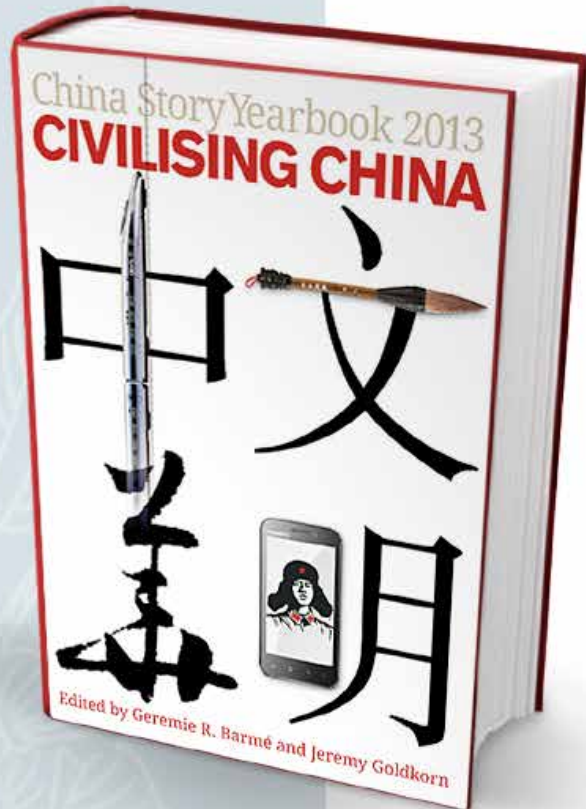


The China Story



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FORUM

LAND, LAW AND PROTEST

Excerpt from

CHINA STORY YEARBOOK 2013

CIVILISING CHINA

文明中华

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The China Story
中国的故事

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As China becomes wealthier and more confident on the global stage, it also expects to be respected and accommodated as a major global force — and as a formidable civilisation. Through a survey and analysis of China's regional posture, urban change, social activism and law, mores, the Internet, history and thought — in which the concept of 'civilising' plays a prominent role — *China Story Yearbook 2013* offers insights into the country today and its dreams for the future.



Chinese football fans, Guiyang, June 2011.
Source: ImagineChina



8月

7月

6月

5月

4月

3月

2月

FORUM

2013年1月

12月

11月

10月

9月

8月

7月

6月

5月

LAND,
LAW AND
PROTEST

LAND, LAW AND PROTEST

A New Land Reform?

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The Top Ten Laws and Regulations

NIMBY Protests

The Top Ten Protesters

A NEW LAND REFORM?

Luigi Tomba

ON 3 APRIL 2013, the *People's Daily* published a commentary on the violent death of two protesting farmers in Henan, crushed in two separate incidents by vehicles used to clear their land for development. 'Besides the open questions about the administrative violations,' wrote the author, 'there remain other things to be asked: has the expropriation followed the appropriate procedures? Is it legal to build a hotel or any permanent structure on basic agricultural land? And if there are problems, who is going to evaluate them, who is taking responsibility?' For people to feel that they have obtained justice, the article argued, 'the greatest efforts should be made to protect the life of every citizen'. These episodes were followed just

a few days later by a major incident in which 300 employees of the Bureau No.13 of the Ministry of Railways attacked farmers who were picketing land earmarked for expropriation.

At times, such violence is perpetrated by government departments through local gangsters and in the name of progress and stability. Many such conflicts emerge in the process of land conversion from agricultural use (*nongdi* 农地) to 'construction land' (*jianshe tudi* 建设土地). Given the great uncertainties surrounding the regime of land use rights, this has today become the single most explosive and confronting issue for local governments in China. About sixty-five percent of all 'mass incidents' are land-related. According to the legal ex-

pert Yu Jianrong's estimates, over the last two decades, local governments have seized 14.7 million hectares of land, and the difference between official compensation and market prices has short-changed farmers by over two trillion yuan. All this has happened while the central government has desperately been trying to prevent the area of China's arable land from falling below the dreaded 'red line' of 1.8 billion *mu* (120 million hectares) — considered the lowest level at which it will be possible to prevent significant food shortages.

The National People's Congress recently approved an amendment to Article 47 of the Land Management Law to allow increased land compensation for deracinated farmers. The limit of 'thirty times the original value' imposed by the law kept compensation from following market value and resulted, according to Jiang Ming — a professor at Peking University — in farmers receiving only, on average, 6.9 percent of the market value of expropriated land.

Over the last six decades, China has experienced repeated land reforms, each defining a different phase of the country's economic develop-

ment. The Chinese Communist Party came to power during the first and bloodiest of these reforms — the one that during and after the revolution redistributed land away from landlords and to collectives of poor farmers who had until that time tilled land owned by others. The system set in place an ownership regime after the revolution (state-owned land in the cities, collectively owned land in the countryside where village co-operatives retained property rights through the period of the People's Communes) that is still formally in place today. Under the new conditions, with land transfer necessary for any economic or infrastructural project, it is turning into a major headache for the leadership, which has become increasingly concerned about the conflicts it has ignited. The redistribution of land to households (the second land reform) in the early 1980s had marginally and temporarily boosted agricultural incomes and land efficiencies. But the parcellisation of land use rights that resulted greatly reduced the productivity of land and the quality of agricultural products. Meanwhile, local governments depended on land conversion (and the fees this generated) to balance their

budgets and foster economic reform. Still in 2012, and despite central policies aimed at slowing down the sale of rural land, the income derived by local government from land fees grew by a staggering 46.6 percent on the previous year!

From 2010, a third land reform has been on the cards and, while discussions rage, local experiments flourish. Since 2003, the Party has produced an annual 'Document No.1' (*Yihao wenjian* 一号文件) devoted to rural reform and the solution of the so-called 'three rural problems (or issues)' (*sannong wenti* 三农问题: agriculture, rural areas and peasants). In 2013, the document that set the tone for rural policy during the year focused on three aspects of this reform: the encouragement of 'specialised farming households' (*zhuanye nonghu* 专业农户); the expansion of rural co-operatives through the corporatisation of collective land in the hands of shareholding companies, inspired by the experiments with corporate collective land first in Guangdong and more recently in other rapidly industrialising areas of the country; and, thirdly, the establishment of 'family farms' (*jiating nongchang* 家庭农场). 'Family farms'



A Guangdong village.
Photo: Luigi Tomba

is a new expression in China's policy landscape, and it refers to farms where most of the labour is undertaken by family members. Family farms are larger in the scale of their production than traditional households, employ more intensive agricultural practices and are largely commercialised (that is, they produce for the market rather than personal consumption). In initial commentaries on this new policy, such farms are seen as 'a further evolution of the specialised household'. Families registering to establish larger scale activities will be entitled to preferential policies by the state in terms of land



Worlds collide: Downtown Wenzhou, Zhejiang province, on the right, and surrounding village, photographed on 15 June 2013.
Photo: Ken Larmon

use rights, welfare, financial support and fiscal regimes. It has also been suggested that such ‘bottom up’ development of larger farms will counter the increasing penetration of agribusiness into the Chinese countryside, which public opinion sees as one of the reasons for the increase in food security issues.

While suggesting the need for fairer and clearer procedures in cases of land expropriation, the 2013 Document No.1 did not offer any clues as to whether there would be significant changes to the present land-owning regime. The distinction between collective and state land — which produces conflicts during conversion — and the dependence of local budgets on land fees are the main problems under discussion. A lack of clarity in

the registration of use rights remains, despite the land census of the late 1980s and early 1990s, which claimed to have mapped and registered over ninety percent of collective land. The 2013 document suggests that such registration should be completed ‘within five years’. Collectives have often redistributed land among villagers or established corporations to manage collective land, and ‘who owns what’ is still a question few can answer. Needless to say, such uncertainty provides opportunities for land-based elites to emerge and for conflicts to develop.

Some have argued that collective ownership has protected farmers from expropriation, and resulted in significant revenues for them, especially in rapidly urbanising areas like Guangdong. Villages in wealthier and rapidly

developing regions of the country have indeed taken advantage of the situation and locked in the growing value of their land — for example, turning some urbanised villages (especially in Guangzhou and Shenzhen) into large land-holding corporations. Others have contended that these are extreme cases — exceptions rather than the rule. In most urbanising areas, farmers have indeed become shareholders, but they have no real control over their assets. Decisions over land use are in the hands of a few, the shares they own cannot be sold, and there is no individual market where they can be used as collateral. Even the houses farmers build on collective land only entitle them to ‘small property rights’ (*xiao chanquan* 小产权) — a sort of usufruct. In order to acquire full owner-

ship rights, farmers are required to pay the difference between construction costs and market price, which few can afford. Collective ownership, therefore, has locked in some of the value produced by industrialisation. But it has also increasingly alienated farmers from the land, while the land itself, especially in peri-urban areas, is increasingly built up. For some commentators, this amounts to a de facto expropriation, and in many cases the value of the farmers’ shares will continue to decline until they become irrelevant to their livelihood.

This situation has led to a fragmentation of land policies, where local governments have accepted substantially different arrangements to

HOUSE FOLK

Real estate and land — how to get it, who should inherit it, and how much of it you need to be an eligible bachelor — these are the problems that beset Chinese people of all social strata from peasant farmers to the urban rich. The real estate business is also closely associated with corruption and with

China's huge income disparities, so political scandals in which officials accumulate large numbers of apartments are a quick source of popular anger. In 2102 and early 2013, there were three stand-out cases of officials who became notorious on the Chinese Internet for their real estate transgressions:

House Uncle (*fang shu* 房叔)

On 8 October 2012, a post was made to the Tianya forum website accusing Cai Bin, a political commissar at the Panyu district urban management office in Guangzhou, of owning twenty-one homes that occupied more than 7,200 square metres of space. He was fired after Panyu district authorities confirmed that he actually owned twenty-two properties. A subsequent investigation revealed that he had taken bribes and conducted illegal business activities while serving as Vice-Director of the district Public Security Bureau, and his case was handed over to the courts.

House Sister (*fang jie* 房姐)

At the end of January 2013, Gong Ai'ai, a bank executive in Shaanxi province, was detained by police for using forged household registration documents to amass forty-one residential properties. When a microblogger revealed that the majority of her real estate in Beijing was purchased in the Sanlitun SOHO development, SOHO real estate company founder Pan Shiyi was accused of being complicit in Gong's fraud and money-laundering racket. Drawing on archived news reports and previous complaints to the State-Owned Assets Commission, left-wing gadfly Sima Nan accused Pan of the rather more insidious crime of conspiring with another property tycoon, Ren Zhiqiang, to defraud state assets. Sima claimed that Ren, chairman of the Huayuan Group, sold an idle development in downtown Beijing to Pan for a price well below market value, after which Pan completed development and realised a profit of five billion yuan. At the heart of the controversy was the ownership of Huayuan Real Estate, the listed company that actually held the properties bought by SOHO, and whose largest shareholder is the Huayuan Group, a state-owned enterprise. Pan and Ren's critics claim that this makes the properties state-owned assets and therefore subject to restrictions on trading.

House Grandpa (*fang ye* 房爷)

In late January 2013, a post on a Southern Media Group portal website accused Zhao Haibin, a member of the party committee at the Public Security Bureau in Lufeng, Guangdong province, of possessing a second identity as 'Zhao Yong', a resident of Zhuhai. Rumours then began to circulate that Zhao had acquired 192 homes in Guangdong. On 4 February, Zhao admitted to the *Guangzhou Daily* that his name had once been attached to multiple homes, but it was done purely as a convenience for his brother, a property developer, and he no longer had anything to do with them. On 26 March, the Lufeng Information Office announced that Zhao had been expelled from the Party and given an administrative punishment for possessing two IDs, and that the remainder of his case had been handed over to the courts.



Housing complex in Ningbo, Zhejiang province.
Photo: Robert S. Donovan

appease farmers and avoid conflicts. Such complexity is what led some analysts, including Zhou Tianyong of the Central Party School, to suggest doing away with collective land altogether. They would nationalise the countryside and grant long-term leases to farmers, thereby extending to the countryside the model used for urban areas by which land is leased for periods of seventy years. According to this scenario, nationalisation would result in farmers exercising greater control over their land for periods long enough to stimulate investment. Such measures would, however, lead to a collapse of rural local governments that greatly depend on the taxes and fees earned through the conversion of rural land. A fiscal reform is therefore central to such reorganisation, to better redistribute wealth in the fragmented economies of the Chinese countryside. This is especially the case since the abolition of the agricultural tax that left local authorities little alternative to speculation and land grabs to provide services and produce growth.

Nationalisation, however, is not as simple as it sounds, and its supporters have failed to convince policy

makers of its merits. It would require a massive transition of land away from collectives. This has until now happened only as case-by-case expropriation, and there is no solid nationwide information on land use rights that can be used as a basis for such transactions. This would be likely to result in massive transaction costs. In a way, this solution would suffer from the same structural problem often identified with the privatisation of land: the lack of a certain base for the distribution of rights.

No clear solution is on the horizon for the massive challenge posed by the inadequacy of the current land regime to the intense exploitation of resources that characterises urbanisation and industrialisation. The increasingly loud public call for 'returning the land to the farmers' will, nonetheless, keep pressure on policy makers in the coming years to reduce inequality and violence around land issues.



THE TOP TEN LAWS AND REGULATIONS OF 2012

The Public Opinion Research Centre of Legal Daily (Fazhi ribao 法制日报) compiled a list of the laws and regulations that garnered the greatest public attention in 2012. The list included the Centre's one-line assessments.

Revisions of the Criminal Procedure Law

A step forward in the protection of human rights.

New Traffic Rules

Many violations receive harsher penalties.

The Law and Underage Prostitution Cases

Continued debate over whether to scrap this legislation. [In 1997, the criminal law was revised so that the keeping of underaged girls in brothels was specified as a crime, thus mak-

ing it distinct from the crime of rape. Various scholars have since maintained that this distinction lessens the punishment associated with running brothels with underaged girls.

[See also Leading Sex and Gender Stories in the Forum 'Tiny Times for Women' – Eds.]

Revisions to Intellectual Property Law

Increased compensation for infringements.

Revisions to Funeral Management Regulations

Forced removal of graves by local governments is criminalised; positive encouragement [for families to agree to relocation or cremation – *Eds.*] to be used instead.

Revisions to Labour Contract Law

Standardisation [of labour laws] introduced for casual labourers.

School Bus Safety Regulations

School buses now enjoy privileged right of way.

Four Imperatives

Legal Daily also listed four pieces of proposed legislation that the public most wanted to see passed:

- protection of citizens' private information: Internet legislation imperative
- tourism industry in chaos: market standardisation imperative
- concerns over [the incidental punishment of] good deeds: good samaritan legislation required
- rebuilding credibility: a charity law [to regulate the operation of charities] is urgently needed.

Revisions to the Environmental Protection Law

Increased attention to public interest litigation.

Domestic Violence Law

Urgent need for rules to protect women against violence.

Feedback Solicited on a Draft Food Law

Genetically modified food a focal point.



Traffic police in Gansu province.
Source: Beijing Patrol/securityguard



NIMBY PROTESTS

A TIMELINE OF NIMBY PROTESTS

The phrase Not In My Back Yard, or NIMBY, has been in use since at least the 1980s in the West to refer to opposition by individuals to new developments in their neighbourhood for fear of pollution of one kind or another. The term is often pejoratively associated with self-interested resistance to projects that may be necessary for the public good. In China, both the foreign press and local activists tend to interpret NIMBY protests as signs of the emergence of a civil society. The government generally tolerates expressions of dissent if they are confined to a particular environmental issue. On the other hand, it usually, and rapidly, censors the dissemination of images and reportage via mobile phones and the Internet, as well as attempts to organise protests by these means.

Many of the NIMBY protests in China oppose the building of new petrochemical and plastics factories, with plants intended to produce paraxylene, or PX, used in paints and plastics a particular target. The following is a list of the most notable NIMBY protests in China since 2007. Even studying media reporting and Internet chatter about such protests, it is hard to know whether the objectionable projects have been cancelled, halted temporarily, moved elsewhere or simply hidden behind high walls.

June 2007

An anti-PX march occurs in Xiamen, Fujian province, against the planned construction of a toxic chemical plant in the city.

January 2008

Thousands of Shanghai residents protest against a proposed extension of the high-speed magnetic levitation 'Maglev' train.

May 2008

Hundreds of residents in Chengdu, Sichuan province, protest against an RMB5.5 billion ethylene plant under construction by PetroChina.

November 2009

Hundreds of residents of Guangzhou, Guangdong province, protest against the planned construction of a waste incinerator, following rumours that a similar incinerator nearby was responsible for a cancer cluster. The protests

force the authorities to postpone construction and eventually relocate the incinerator.

August 2008

Beijing residents protest against the city's biggest refuse dump site at Gao'antun, Chaoyang district outside the city's Fifth Ring Road. They claim the dump is polluting the air with a foul stench and dangerous toxins. The dump continues to operate but the government has implemented measures to reduce the smell, including burial and chemical treatment.

July 2010

More than 1,000 villagers march on the streets of Jingxi county, Guangxi Zhuang Autonomous Region, to protest against the pollution caused by an aluminium plant.

August 2011

A chemical plant in Dalian, Liaoning province, is closed down after thousands of protesters confront riot police, demanding that the plant be shut due to safety concerns.

Beijing residents protest against high-speed railway construction.
Photo: Jim Xue



September 2011

Several hundred villagers in Haining, Zhejiang province, protest for four days, overturning cars and storming the compound of a photovoltaic manufacturer accused of releasing pollutants into a local river. Police break up the riot.

December 2011

Following the announcement of plans to expand a coal-fired power plant in Haimen, Guangdong province, tens of thousands of residents protest, barricade a freeway and surround government offices. Three days later, authorities announce that the planned expansion will be temporarily suspended.

April 2012

Thousands of Tianjin residents demonstrate against a planned US\$1.7 billion Sino-Saudi joint venture petrochemical plant.

July 2012

Protests in the city of Shifang, Sichuan province, result in the cancellation of a copper mine project.

July 2012

Tens of thousands of people in Qidong, near Shanghai, protest against a proposed sewage pipeline at a paper factory. Plans for the pipeline are shelved.

October 2012

Thousands of residents of the city of Ningbo protest against a multi-billion yuan expansion of an oil refinery and chemical plant. After a few days, an official statement announces that the project will not go ahead.

October 2012

Thousands of residents in the coastal town of Yinggehai, Hainan province, demonstrate against plans to build a large power plant nearby. Dozens of people are injured when police crack down on the protests; the police detain more than one hundred protesters. This follows similar protests in January 2012 against plans to build a coal-fired power plant close to the town.

December 2012

Around 300 protesters stage a march in Beijing against plans to construct a portion of the Beijing-Baotou high-speed railway line through their neighbourhood on Qingnian Road in Chaoyang district. Media reports say that plans for the project have been put on hold but there have been no announcements about the railway line since then.

May 2013

Hundreds of people gather in Kunming, Yunnan province, to protest plans to build a PX plant in a nearby town.

NIMBY protesters wearing facemasks during a protest against a PX plant in Kunming.
Source: China News Service



THE TOP TEN PROTESTERS

On 30 December 2012, Tencent News — a channel owned by the country's largest Internet company — published a list of the ten most important protesters over the previous two years. Although the piece was soon censored from the channel, it went viral on social media. Here is a summary of the list, adapted with permission from a translation on GlobalVoices.org:

**Wukan Village Residents:
against election fraud**

After protests against local authorities over farmland-grabs and corruption in late 2011, residents of Wukan in Guangdong held elections for village leaders in February 2012.

**Qidong Citizens:
against opaque decisions**

In July 2012, citizens in Qidong, a city near Shanghai, surrounded the local government headquarters to protest against the construction of a pipeline that would channel wastewater from a Japanese-owned paper mill into the sea.

**Hong Kong Citizens:
against 'brainwashing' education**

The Hong Kong government's plan to make 'patriotic education' compulsory at schools triggered mass protests and strikes among Hong Kong parents and students who considered it 'brainwashing'. In the end, the government cancelled the classes.

**Ren Jianyu:
against restrictions on free speech**

A village-level official by the name of Ren Jianyu was sentenced to two years of 're-education through labour' in August 2011 after posting messages on

microblogs about social issues. Ren's case triggered a campaign on Chinese social media to end the Re-education Through Labour system.



Ren Jianyu.
Source: Caixin.com

Zhan Haite: against inequalities in educational opportunities

A fifteen-year-old girl, Zhan Haite, made waves in the media for her campaign on Weibo for the right to take the high school entrance exam in Shanghai, which is currently denied to the children of migrant families living in Chinese cities without a residency permit.



Zhan Haite.
Photo: Aly Song

Yang Zhizhu: against the One Child policy

In March 2010, Yang Zhizhu lost his job as a law lecturer in Beijing for having more than one child. His story is not rare, but Yang's high-profile protests spurred debate over whether the one child policy is needed, especially now that the first generation born under it face the prospect of becoming sole carers for an ever-increasing number of pensioners.



Yang Zhizhu with his daughters.
Source: Southern Metropolis Weekly

Zhao Keluo: the 'grave clearing' campaign



Zhao Keluo.
Source: Globaltimes.cn

Official policy saw two million graves and tombs across Henan province demolished in 2012 during a campaign to 'flatten graves and return the land to farming'. Zhao Keluo had his candidacy for the provincial ruling committee revoked due to his fight against the campaign. He published a sarcastic 'letter of repentance' on his Weibo account apologising for his criticisms.

Wu Heng: against toxic food

Food safety is another issue that has concerned citizens in recent years. A graduate student, Wu Heng, decided to do something about it: he launched a food safety website called 'Throw it Out the Window' (*Zhichu chuangwai* 掷出窗外, at: zccw.info).

Luo Yonghao: against commercial domination

In early 2011, the Internet celebrity and noted teacher Luo Yonghao tried attracting the attention of Siemens via his Weibo microblog when the door of his fridge refused to shut. When the company ignored him, Luo got other angry customers to join him in smashing their fridges outside Siemens' Beijing headquarters.



Luo Yonghao.
Source: Globaltimes.cn

