

March 2012

# The Next Big Question for China: Land

## Field Survey Findings on Chinese Farmers' Land Rights and Ongoing Reforms

Roy Prosterman

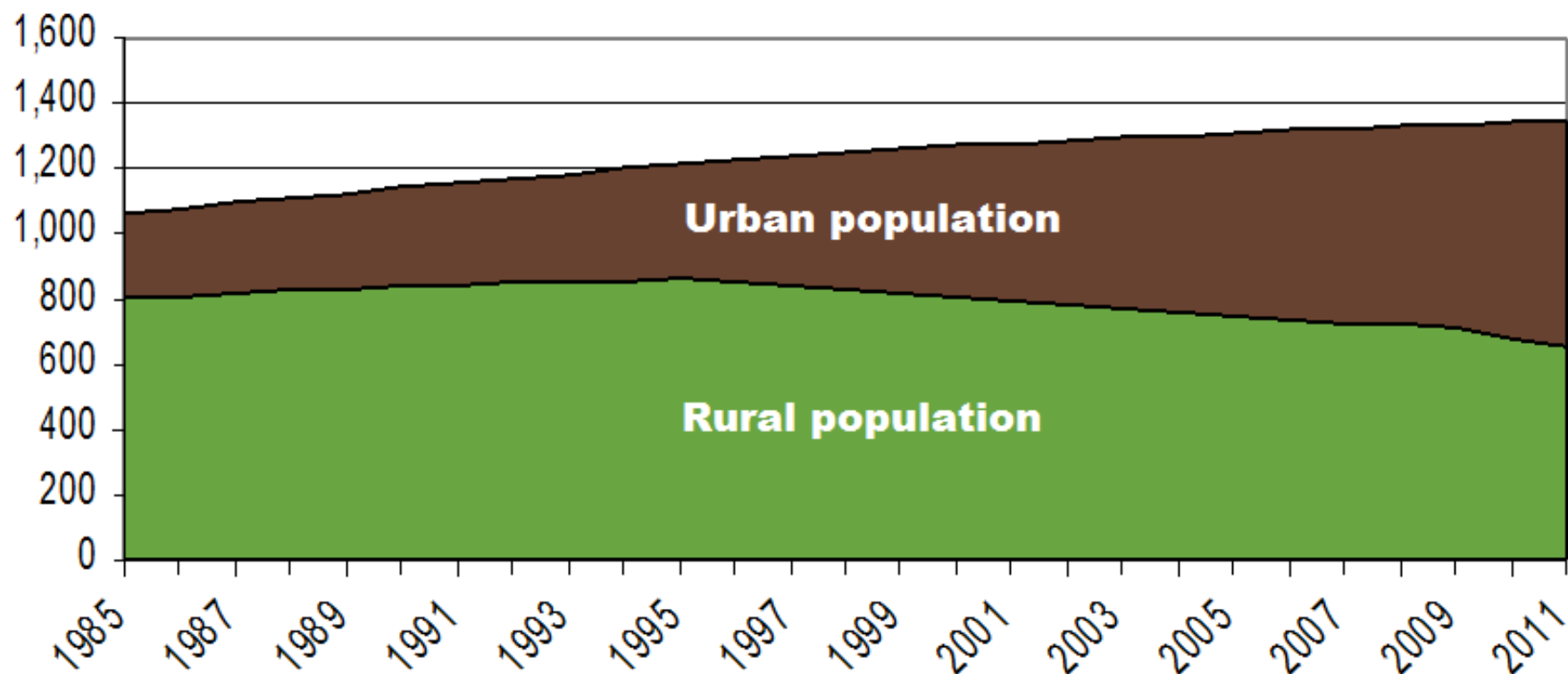
Zhu Keliang

# The Big Picture of Today's Rural China

## 1. Rapid urbanization

- According to China's official data, its urban population for the first time exceeded rural population in 2011.
- However, the majority of the recently urbanized people, often known as “migrant workers” from the countryside, are yet to become full-fledged urban citizens, receiving neither urban status nor urban services and benefits.
- The urban growth and industrialization has used up large amounts of farmland, resulting in pervasive land expropriations and undermining both food security and rural social stability.

# China's Population Pattern Changes (millions)

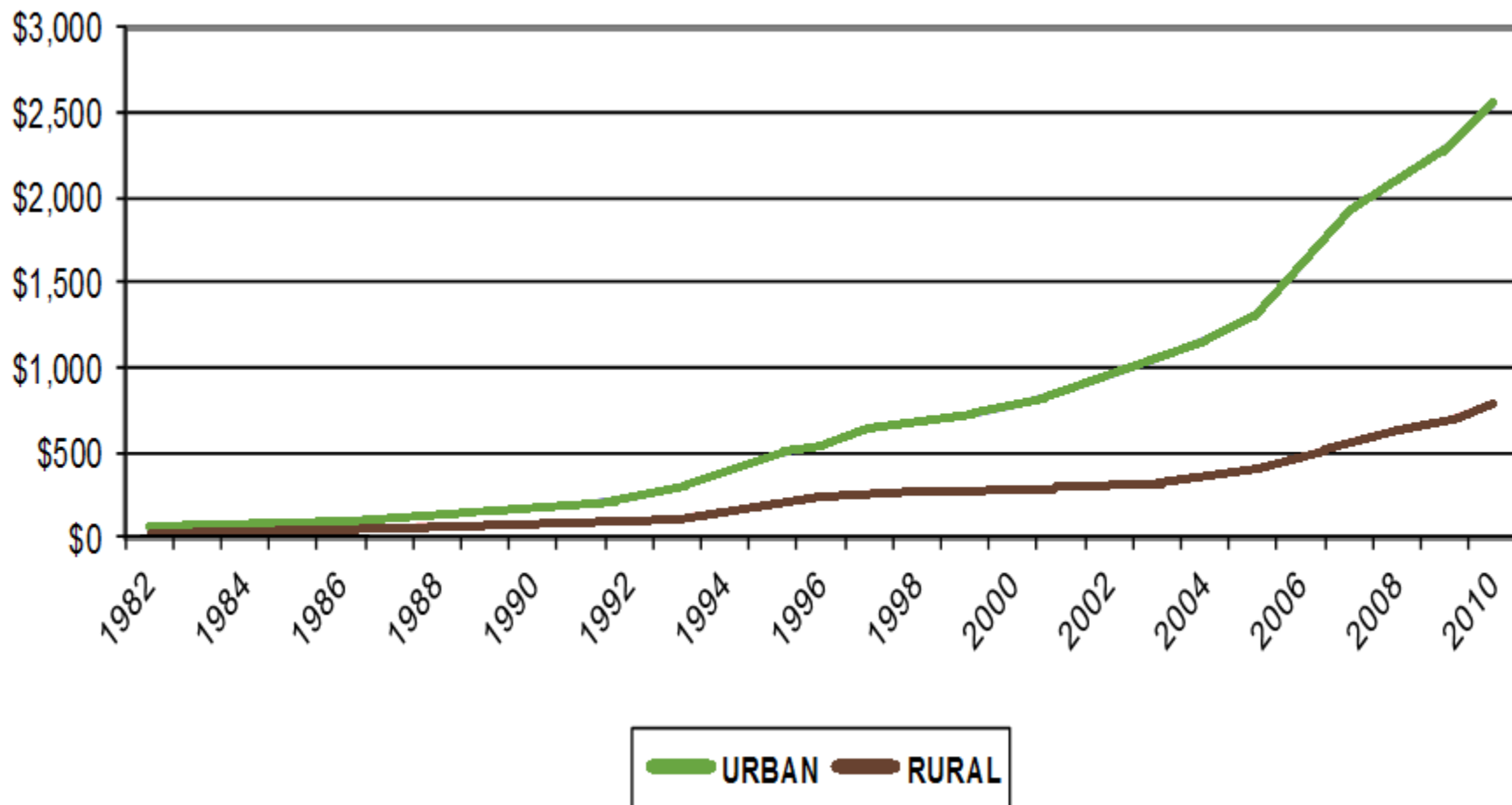


# The Big Picture of Today's Rural China

## 2. Worsening rural-urban disparities

- **Still low income:** in the year 2011, average rural per capita income for the approximately 700 million rural people is \$1,100 dollars, while urban per capita income has reached \$3,800 dollars.
- **Still poor:** new World Bank estimates as of 2010 indicate that more than 170 million people still live under \$2 a day. The great majority of these are rural.
- **Still lagging badly on other measures:** the countryside lags in life expectancy, infant mortality, education, medical care, social safety nets, etc.

# Per Capita Income Comparison



# The Big Picture of Today's Rural China

## 3. Brewing Discontent

- An estimated total of 187,000 “mass incidents” occurred in 2010, 65% of which arose from land grievances.
- According to an analysis of recent rural mass incidents reported by Chinese media:
  - In 53% of all the cases, local authorities mobilized police force to clash with protesting farmers, in addition to another 21% cases where local governments used other extreme measures to suppress the mass incidents.
  - As a result, in 56% of cases protesting farmers chose to block construction or destroy construction equipment, in 30% chose to besiege local government buildings, in 13% attended sit-in demonstrations, in 9% at least one farmer chose to commit suicide to protest, and in only 10% involved filing formal lawsuits in court.

To decisively narrow rural-urban disparities, to achieve broad-based and inclusive development, and to succeed in building a truly “harmonious society”,

China must resolve the land issue.

# The Legal Regime on Rural Land Rights

- **All rural land is owned by “collectives” (village communities)**
  - Since modern-era land tenure reform started in the late 1970s, the breadth of collective ownership has been narrowed to give more rights to farmers.
  - Property Law (2007) clarifies that “collective” ownership is ownership by all members of the community, but local officials still possess great power in practice.
- **Individual farm households have “use rights”**
  - Such use rights are property rights under the law, consisting of the right to occupy, to farm and use, and to transact the land.
  - For farmland, the term of the rights is 30 years (mostly started in late 1990s).
  - Land rights documents: contracts and certificates.



# Land Contracts

**土地承包合同书**

鉴证号: 08240224

发包方: 孝南区毛陈乡(镇、场、街道)东海村(2组)  
承包方: 沈明文, 家庭人口 4, 承包人口 5.6, 劳力 2 人。

为了稳定农村土地承包关系长期不变, 明确承包合同双方的权利义务, 保护合同双方的合法权益, 保证合同的全面履行, 根据《农村土地承包合同管理条例》和有关法律、法规、政策, 订立此合同。

**一、合同双方的权利和义务**

1. 发包方: 指导承包方搞好生产经营管理, 提高效益, 保护承包方在承包期限内的承包经营自主权, 为承包方提供可能提供的各类生产经营技术服务和市场信息服务, 拥有土地所有权。

2. 承包方: 拥有土地经营权, 在国家法律、法规、政策允许和合同约定的范围内, 自主开展生产经营活动, 但不得搞掠夺性经营, 不得改变土地用途, 不准私自承包土地上葬坟、取土、盖房和搞其他建筑物, 不准抛荒, 自觉维护承包土地内的各类设施, 按期按规定完成国家税费和其他费款, 积极完成集体投工。依法保护承包期内自己的合法权益。经发包方同意, 承包方在承包期内可对承包标的依法转包、转让、互换、入股, 并依法到合同管理机构办理转让和合同变更手续。

**二、承包标的**

承包方承包发包方总耕地面积 8.9 亩, 其中水田 3.5 亩, 旱地 0.9 亩(具体每块面积、等级、方位见《土地承包经营权证》)。

**三、合同期限**

本合同自签订之日起, 其承包关系一定30年不变。发包方在承包期

内, 根据人土变动和上级政策规定, 当年分解国家税费, 其它费款和投工任务。

**四、违约责任**

1. 发包方违约, 应当赔偿因此而造成的经济损失, 如发包方不执行, 承包方可向土地承包合同管理机构或仲裁机构, 申请调处或仲裁。

2. 承包方违约, 除交足当年应交各款和完成全部投工及其他任务外, 发包方有权提出批评教育, 屡教不改者, 可以给予适当的罚款, 仍然不改者, 经土地承包合同管理部门批准, 可以收回承包土地和《经营权证》。

3. 承包期内, 承包方必须按时缴纳应承担的税费, 如不按时缴纳, 发包方可申请人民法院执行。

4. 合同双方在承包期内因承包土地发生一切纠纷接受本地承包合同纠纷仲裁机关的仲裁。

**五、本合同书一式二份, 发包方、承包方各执一份。合同鉴证表由鉴证单位保存。**

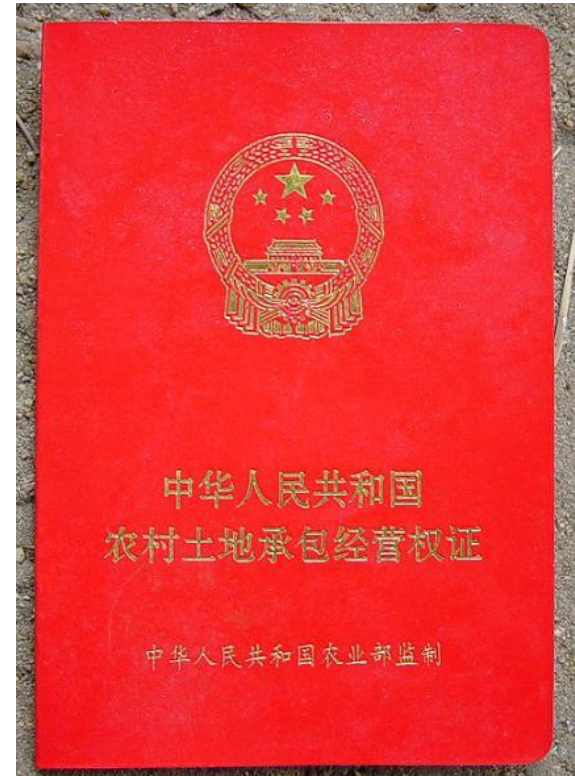
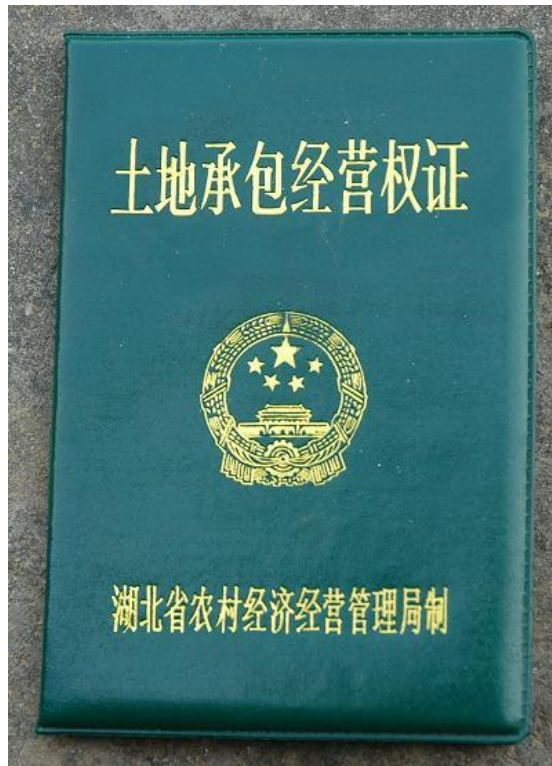
发包方(盖章) 法人代表(盖章)

承包方(盖章) 沈明文

鉴证单位(盖章)

签订日期:      年    月    日

# Land Certificates





Total land size

Number of parcels

Family Rep.

30-year term

All family members

发包方 全称	美兰县灵山乡 (盖章)				
承包方代 表姓名	吴乾洪				
承包方 住址	美兰县灵山乡 村 村宅组				
土地承包 合同编号					
承包期限	1998年1月1日至2027年12月31日止				
承包方式	家庭承包				
承包土 地用途	农业用地				
承包方土地承包经营权共有人情况					
姓名	性别	年龄	姓名	性别	年龄
吴乾洪	男	51			
林桂兰	女	54			
吴坤森	男	24			
吴亚玉	女	23			

承包地总 面积(亩)	2.05			承包地块 总数(块)	8块
地块 名称	面积 (亩)	等 级	地 类	四 至	
秧田	0.32		水田	东: 水沟 南: 乾荣	
苏薯井	0.67		:	西: 亚花 北: 清明	
秧田	0.76		:	东: 好菜 南: 路	
秧田	0.76		:	西: 清明 北: 好妹	
公路园	0.12 0.32		:	东: 清明 南: 地金	
秧田	0.35		:	西: 提地 北: 公路	
秧田	0.35		:	东: 好菜 南: 清明	
秧田	0.35		:	西: 好菜 北: 乾荣	
秧田	0.20		:	东: 清明 南: 乾荣	
秧田	0.26		:	西: 世昌 北: 水沟	
秧田	0.11		:	东: 好菜 南: 乾荣	
			:	西: 好菜 北: 乾荣	

# The Biggest Problem with Chinese Farmers' Land Rights: Insecurity

- **Laws & Policies**

- Basic laws and central policies are reasonably good on paper, but with several big holes
  - very inadequate on the subject of compulsory takings;
  - virtual vacuum on farmers' residential land rights.

- **Practice**

- Lack of implementation is the central problem.
- Lack of supporting institutions for property rights (from document issuance, to grassroots awareness, to dispute resolution mechanisms, to effective courts).

# 2011 Nationwide Survey on Rural Land Rights

- 1,791 farm households were interviewed in mid-2011, which is the sixth in a series (prior ones in 1999, 2001, 2005, 2008, and 2010).
- The 17 major agricultural provinces together have 75% of China's rural population.
- Accuracy level of  $\pm 2.3\%$  (at the 95% confidence level) for the entire 17 provinces.
- Survey partners: Landesa, China Renmin Univ., & Michigan State Univ.





# Survey enumerators in the Field



# Survey enumerators in the Field





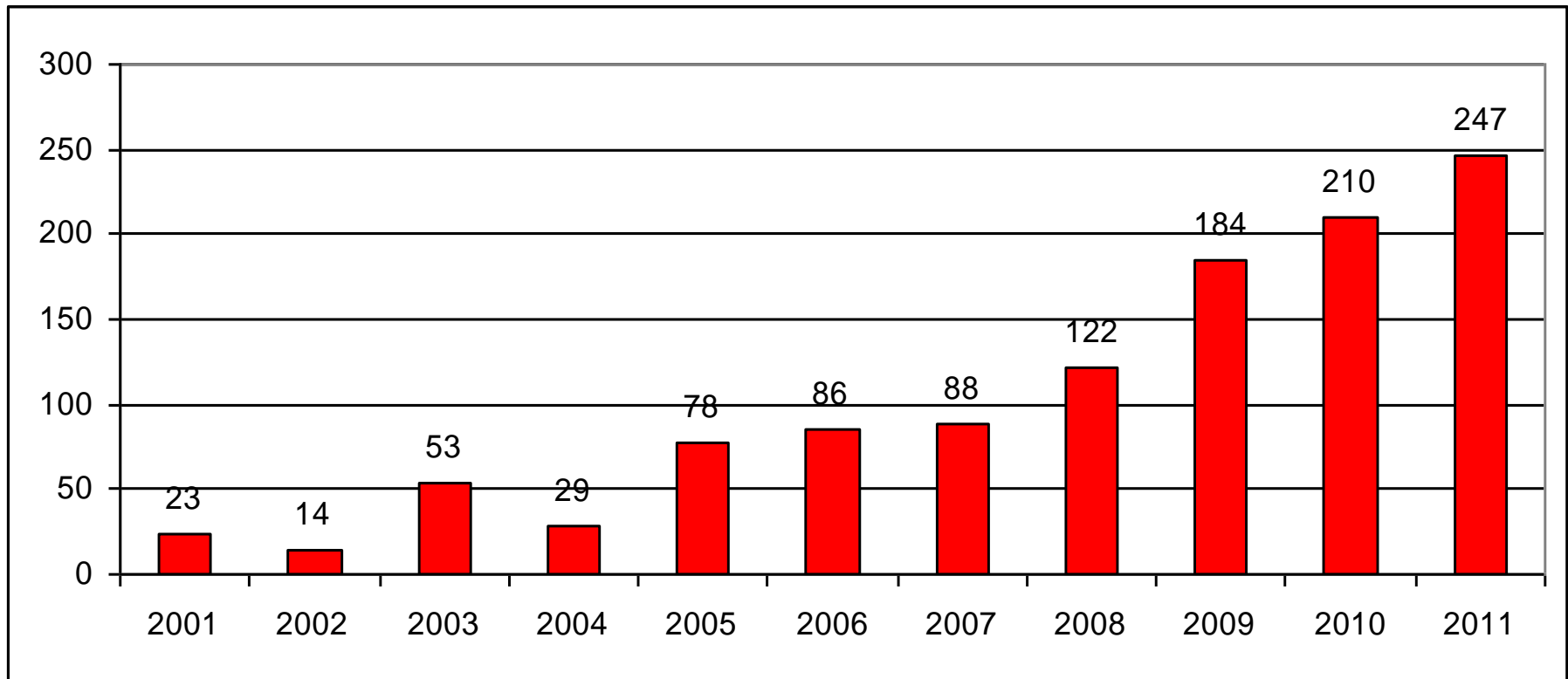
# Survey enumerators in the Field





# Threats to Farmers' Rights: Land Takings

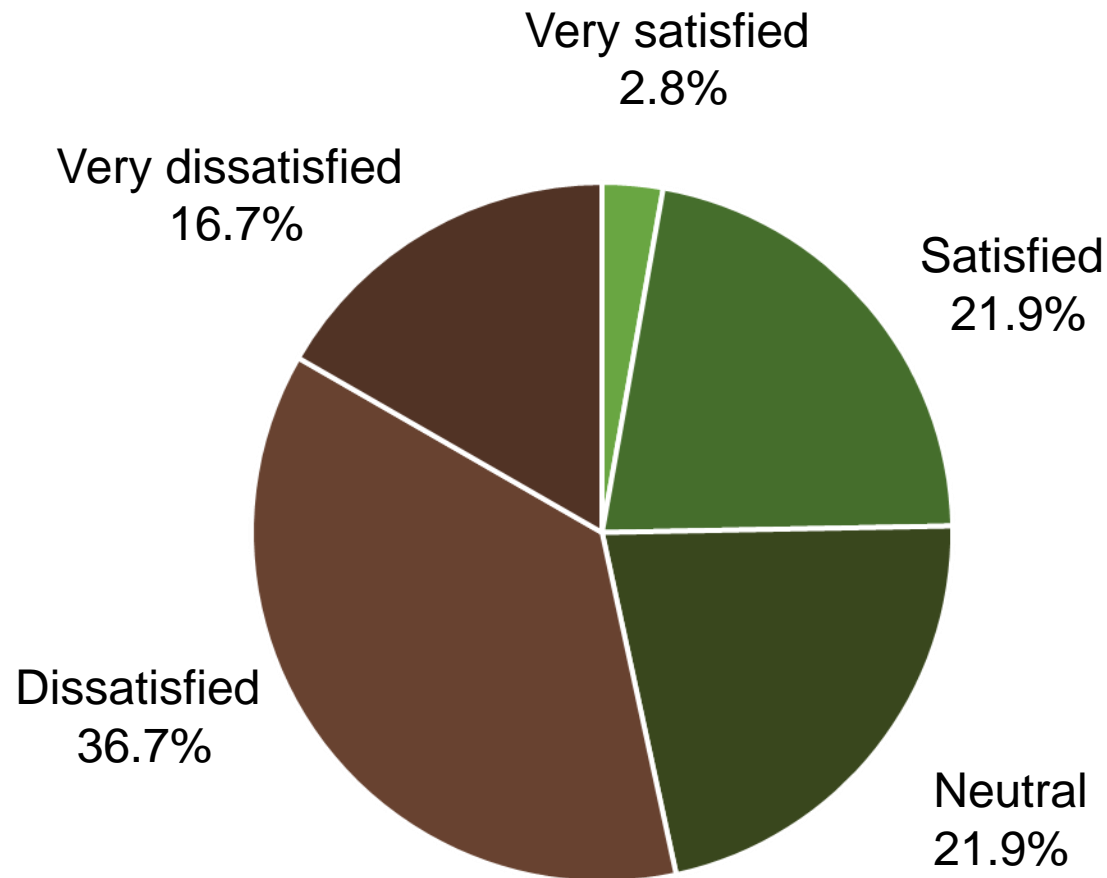
- **43% of the 1,791 surveyed villages have experienced compulsory land takings since late 1990s.**



# Threats to Farmers' Rights: Land Takings

- Average compensation to land-losing farmers is about US\$18,000 per acre, a small fraction of its true market value (US\$740,000 per acre as the mean, US\$190,000 per acre as the median, based on the reported prices for which the local authorities sell the land).
- The dissatisfied farmers outnumber the satisfied ones by a ratio of two to one. More importantly, 17% of affected farmers reported as “extremely dissatisfied.” As a result, land grievances are the leading cause for mass protests and conflicts in China.

# Farmers' Satisfaction Level in Land Takings



# Threats to Farmers' Rights: Forced Urbanization

- Local authorities have recently promoted programs to move farmers into urban or semi-urban living settings to usurp more land from farmers for development.
- One out of every six villages is now affected across rural China, and in 57% of all cases, relocated farmers do not have any farmland at all.
- Only 14% of the vacated residential land and 44% of the vacated farmland is currently used for agricultural purposes, contrary to local governments' claim of preserving farmland.

# Threats to Farmers' Rights: Forced Urbanization

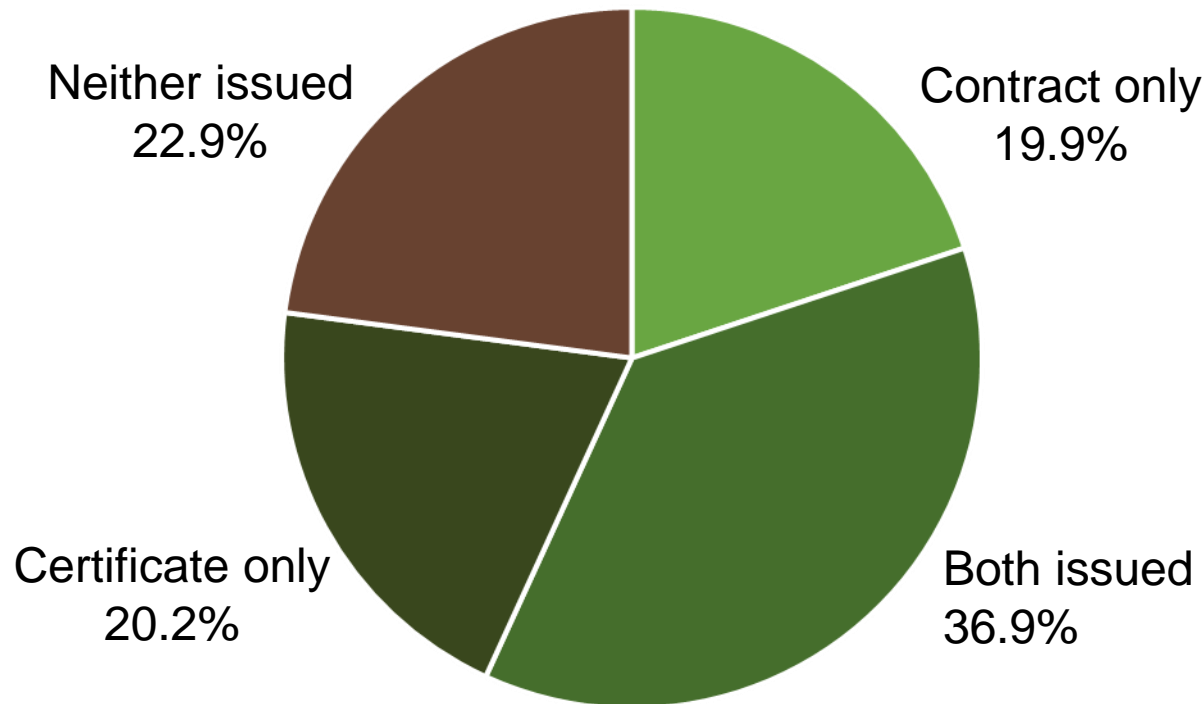
- The vast majority of them fail to become full-fledged urban citizens:
  - Only 18% moved inside established urban settings (townships or county seats), the remainder still living in the countryside or at the fringes of urban development.
  - Only 22% changed to urban residential registration;
  - Only 14% covered by urban social security system;
  - Only 9% covered by urban medical insurance system; and
  - Only 21% of their children can access urban schools.

# Threats to Farmers' Rights: Involuntary Land Transactions

- **About 17% of all villages have experienced land transfers to companies and other outsiders.**
- Many of the land lease agreements are very much one-sided in favor of the interests of the companies or outsiders. The length of lease terms in more than 1/5 of all cases has exceeded legal limit.
- Farmland leased to these companies and outsiders is supposed to remain agricultural but in 1/4 of cases farmland is developed for illegal (and more profitable) non-agricultural uses.
- 25% of all these leases are done due to direct coercion by local officials. Another 42% of these deals involved some extent of pressure on farmers.

# Threats to Farmers' Rights: Inadequate Documentation

- The law and policy require that farm households receive both land contracts and land certificates to confirm their 30-year rights. China has a long way to go to achieve universal issuance.



# Threats to Farmers' Rights: Inadequate Documentation

- **The quality of issued documentation is also poor.**
  - Only 21% of the contracts and 40% of the certificates can be considered strictly law-compliant (containing essential elements such as specified length of the rights, adequate land description or parcel map).
- **Women's names are generally missing.**
  - Only 17% of the issued contracts and 38% of the issued certificates record women's names.





**“Me, and my  
security”**

## Some Good News: Farmers' Investments

- 33% of farmers, typically those who have some security in their land rights, have reported mid- to long-term diversification investments in land (orchards, green houses, pig farms, fish ponds, etc).
- In 93% of all cases, farmers used their family savings to make the investments.

Only 15% are able to borrow from banks or other formal institutions. The main reasons cited for this is that most banks do not accept or consider loan applications from farmers due to the lack of either collateral or co-guarantors (farmers' land cannot be mortgaged).

## Some Good News: Farmers' Investments

- **In 2010 such investments yielded an average net income for the investing farmer of nearly US\$1,800.**
  - It is estimated that a total of US\$58 billion was generated in the year of 2010 alone due to these investments that are attributable to secure land rights — this represents 8.6% of total rural income in that year.
- **The \$58 billion is only the tip of the iceberg.** The untapped potential for income growth and wealth generation is enormous if all Chinese farmers enjoy secure rights.

# Implications for Further Land-Rights Reform in China

# Immediate & Urgent Reforms

- **Reform the law and practices on compulsory land takings, to be done by the time of the central leadership transition in March 2013** (to define “public interest,” and improve compensation standard and procedural due process for affected farmers).
- **Protect the land rights of farmers and migrant workers against coerced and poorly compensated urbanization programs** (no forced evictions, protection of both farmland and residential land rights).



## Mid-term Reforms

- **Issue land rights documents to all farm families to further assure their rights** (with women's names fully recorded in all new documents, including the new land registration pilot projects).
- **Make farmers' 30 year land rights automatically renewable for similar or longer terms, without charge.**
- **Adopt strict limitations on landholding by companies and other big holders** (e.g., full consent from affected farmers, clear penalties for illegal land use).

# Long-term and Broader Improvements

- Effective supporting institutions (court system, legal aid & awareness).
- A strong social safety net for farmers (such as medical, pension).
- The reform of rural finance system.



# Imagine what secure land rights for 700 million rural people would mean for China?

- Long-term investments in land that lead to greater productivity and higher income.
- Broad-based property rights lead to wealth creation, social stability, civic participation, and rule of law.
- Better environmental stewardship.







***Securing Land Rights for the World's Poorest***

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