

# The Process of Land Expropriation in China: A Analysis on Choices of Strategies among Local Governments, Peasants and the State

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## Abstract

Recent studies indicate that the defects and shortcomings of land expropriation has produced , owing to the land utilization behavior of local government under the “land finance ”, including the deficiencies of the institutional design of law, unclear definition of public interest, ambiguity of collective ownership, low standard of land compensation and lack of judicial aids. It will result in the decrease of cultivated land, increase of the unemployed population, low standard economic-social life, the influence of social stability and legitimacy for local government. The purpose of this paper is to analyze the choices of strategies among local governments, peasants and central government. Currently, local governments abuse expropriation power and authorization power of land leasing as a tool of maximizing finance revenue, government activities often lead to tortuous land expropriation. The result shows that land finance could induce local governments to expand cultivated land occupation in pursuit of fiscal revenue growth, economic development, local competition and achievement of official performance evaluation. The strategies of peasants' choices are to use weapons of the weak, mobilize children, women and elders to strengthen the degree of the morality and legitimacy for their rights of protection, and seek enough resources from social elites, choose the best moment of solution, use the right of recall and have recourse to law. The strategies of central government's choices are to take vertical management of land resource under province, establish the arbitration of land compensation and settlement, construct the supervision of land expropriation and so on. The article reveals that strengthening the peasants' protection of their rights and upgrading degree of the punishment and threat from central government are important countermeasures. In the meanwhile, changing the cost of expectation benefit from local governments will be effective to constrain the illegal act of land expropriation by local governments.

**Keywords: Land expropriation, Rights of peasants' protection, Official performance evaluation, Local government, Local competition, Central government**

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# 中國土地徵收之過程： 地方政府、農民與國家策略選擇分析

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## 摘 要

中國土地徵收制度實施產生諸多問題，包括法律設計缺陷、公共利益界定模糊及產權主體不明、徵地標準偏低及欠缺救濟途徑等問題，這導致耕地面積減少、失業人口增加、原生活水平降低、社會經濟問題增加、農民抗爭衝擊社會和諧穩定、降低農民認同感及減少政府合法性基礎等影響。本文的切入點主要是從中國土地徵收過程，分析其中央政府、地方政府與農民策略行為選擇。本文結論初步認為地方政府或官員基於發展主義、政績工程、地方競爭關係及政治職位升遷之激勵擴大化其徵地動機，以土地出讓為手段極大化其財政收益，並因違法成本較小導致其採取非法徵用、越權審批化整為零方式徵地，同時侵佔、截留、挪用及壓低徵地補償費和安置費，並對農民維權抗爭加以「污名化」與壓制。中國農民則採取維權抗爭策略，包括運用弱者的武器強化弱勢者維權的合法性與道德性，如動員兒童、婦女及老年人參與維權抗爭；尋求社會菁英的奧援及選擇重要關鍵時機提升上訪效益；罷免官員及採取法律途徑訴訟。中央政府在地方徵地衝動與農民維權抗爭雙重夾擊下其採行策略，例如對國土資源實施省以下垂直管理、建立徵地補償安置爭議裁決制度、設置國家土地督察制度、國有土地使用權出讓收支納入地方預算、專項清理非法低價出讓國有土地使用權問題及強化省級政府審批土地的責任等措施。本文認為實有必要加強中央政府的懲罰威脅和農民維權抗爭之有效性，始能改變地方政府違規徵地的收益預期。

**關鍵字：**土地徵收、農民維權、政績考核、地方政府、地方競爭、中央政府

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