

## Farmland Acquisition System in China: Problems and Responses

HE Ge<sup>[a],\*</sup>

<sup>[a]</sup>College of Economics and Management, Sichuan Agricultural University, 211 Huimin Road, Wenjiang District, Chengdu, China.

\*Corresponding author.

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### Abstract

There is an increasing interest in improvement China's farmland acquisition in the context of there are too many problems existed in the current farmland acquisition, which not only gives rise to wealth gap, brings about urban sprawl, but also causes environmental degradation. So, this paper aims at putting forward some feasible policy suggestion to improve the current farmland acquisition system in China based on analyzing its problems and making an attempt to give out the reason.

**Key words:** Farmland acquisition; Acquisition system; Land administration; China

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### INTRODUCTION

The last decades saw China has being experienced high speed development not only in economy fields but also in society fields. This is demonstrated from the following three aspects: Firstly, the total Gross Domestic Product (GDP) increased from 364.52 billion yuan in 1978 to 40326.00 billion yuan in 2010 (current price); and per capita GDP also increased from 381 yuan in 1978 to 29992 yuan in 2010 (National Bureau of Statistics of China, 2011). That is to say, the national wealth calculated not only by total amount but also by per capita increased significantly. Secondly, the people's income, measured by

per capita annual disposable income of urban households or per capita annual net income of rural households for urban citizen or rural citizen, increased greatly over the period of 1978-2010. In the sight the urban citizen's income change, the per capita annual disposable income of urban households increased from 343.4 yuan in 1978 to 19109.4 yuan; at the same time, the per capita annual net income of rural households increased from 133.6 yuan to 5919.0 yuan. Thirdly, the urbanization level measured by the share of urban citizen accounted for the whole population grow up largely. The statistics data from national statistics bureau denoted that the urbanization level changed dramatically from 10.64% in 1978 to 49.95% in 2010. This means that there is almost half of the population in China lives in urban region at present. In all, China has achieved great performance in socio-economic fields since the reforming and open-up policy. However, to some extent the above achievements are at the cost of the loss of the farmlands. According to land resource bulletin announced by Ministry of Land Resources of China demonstrates that the farmland area decreased from 1.284 billion ha in 2000 to 1.217 billion ha in 2009, which denotes that the farmland area reduced 67 million ha in the above eight years and each year the farmland area in China would reduce 8.375 million ha, which equals a medium scale of county. Although not all the farmland area reduce result from farmland acquisition, it account for the main share of it. The land resources shows that only over the period of 1995-2005, the urban built-up area increased newly 45.41 ten thousand ha, and the industry and mine land area increased newly 91.28 ten thousand ha. At the same time, the city size in China increased averagely by 50%. Moreover, the urban expand indicator reach up to 2.28, which is far greatly than the reasonable level, 1.12 Disorder farmland acquisition not only result in urban sprawl, but also give rise to wealth gap and environment degradation. So, it is significant that to carry out the research on the problems of farmland

acquisition and find out its solutions in order to realize fair development between rural region and urban region in China.

The paper organizes as follows: the next section presents the relative literature in order to explain why the topic was chosen; the second section presents the current condition about the farmland acquisition system in China to lay a foundation for the problem of the farmland acquisition system; the third section display the problems of the farmland acquisition and make an attempt to give out the explanations. The final section concludes and put forward some suggestion on how to improve the farmland acquisition system in China.

## 1. LITERATURE REVIEW

There is increasing interesting in china's land acquisition system in the context of china's transformation economy. The researchers from different scientific fields has been studied on China's farmland acquisition system and its reform so there are numerous literature concentrated on this topic. For instance, Ding (2007) studied policy and praxis of land acquisition in China based on analyzing institutional structure governing land acquisition in pre-and post-reform eras and examines consequences and impacts associated with or derived from land acquisition. He drawn a conclusion that land acquisition on one hand has been used heavily by local governments to fuel urban development and finance infrastructure provision; and the other hand the current land acquisition system has resulted in increasing social tension and injustice that may impose a long-term threat to stability and sustainable development. Obviously, Dr Ding's study neglected the remedy of the current farmland acquisition system in China. That is to say, he did not put forward the specific measures to improve the current farmland system in China. Chan (2003) studied land acquisition compensation in China and he held that the high rate of urbanization in China had led to great demand for land for infrastructure. In order to obtain more developable land, the government has implemented various measures including compulsory land acquisition to meet the demand. Although land acquisition in China is carried out according to the provisions of the People's Republic of China Land Administration Law, the law does not address the issue of just compensation to the affected people, and has caused great discontent. Clearly, this paper attempts to identify the problems and suggests recommendations for improvement to the current farmland acquisition in China, but the author did not give out the reason that the problems is caused. In all, although some literature had concerned the topic, they neglected the systematical studies on current conditions, problems, reasons and policy suggestion. So, this study makes an attempt to do this.

## 2. THE CURRENT CONDITION OF THE FARMLAND ACQUISITION SYSTEM IN CHINA

### 2.1 The Current Land System in China

The farmland acquisition system stems from the land system in china. So, the land system should be introduced before being introduced the acquisition in China. According to China's Constitution and The Land Resource management Law, the land resources in the urban region are owned by the state while in rural region the land resources is owned by the collective economic organization according to the laws regulation, otherwise they are belonged to the state. The legal provisions demonstrated that there are dual land systems or land tenure system in China. Beyond this, the land users, natural persons, legal persons or other organization, can only acquire land use rights within 30 years, 40 years, 50 years or 70 years by the land use planning. For example, the farmers in a certain collective economic organization can entitle thirty years land use rights but they only can use the land in the scope of the laws. In urban region, different land uses have different validity. For commercial or industrial use, it is 40 years; for cultural, educational or medical use, it is 50 years; and for residential use, it is 70 years.

### 2.2 The Current Farmland Acquisition System in China

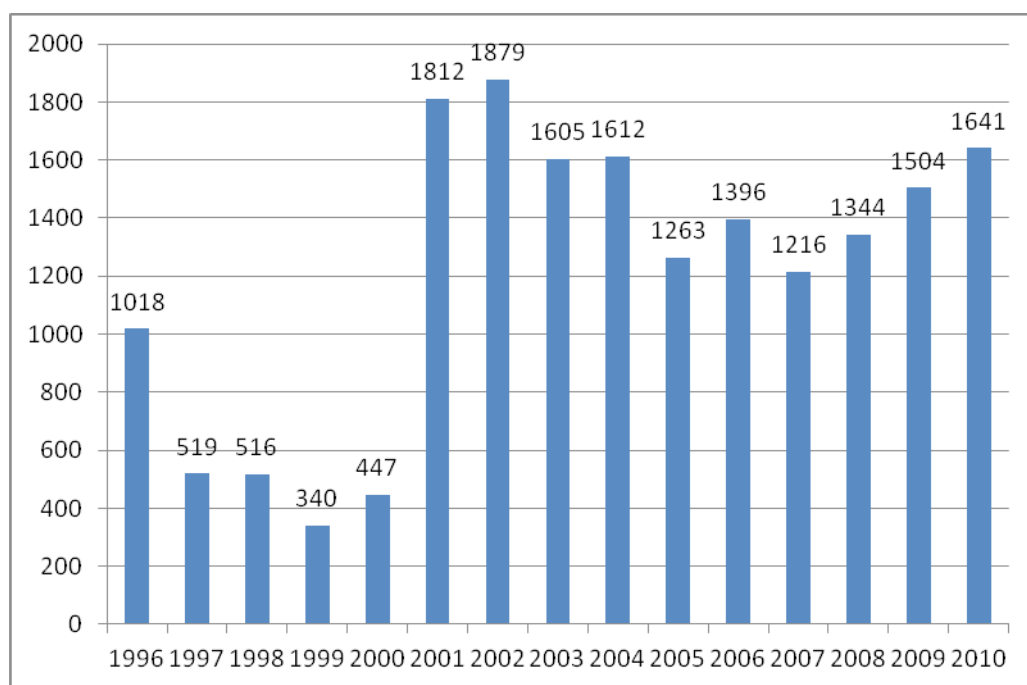
Factually, each country or state including China has property acquisition systems although the acquisition systems have different title. For example, it is known as eminent domain in the united states; in Canada, the united Kingdom and the Australia, the system called as "expropriation", "compulsory purchase" and "compulsory acquisition or resumption", respectively. Although it has diffident title, the main aim is the same: It is endowed to the state with special right for public use or public interest.

In view of China's dual land system, on one hand China state provides strictly on farmland acquisition as mentioned in the CONSTITUTION or the land resource administration law, only for the public interest, the state has the right to take the collective economic organization's farmland and make it become owned by the states; On the other hand the LAND RESOURCE ADMINISTRATION LAW OF CHINA (revised in 2004) and the REAL RIGHT LAW OF CHINA (Adopted at the 5th session of the Tenth National People s Congress on March 16, 2007) both regulates specifically the scope, the compensation context and standard, and the procedure of farmland acquisition. Even so, in terms of the rapid socio-economical development required for a great deal of land, considerable farmland is taken by various levels state over the recent years (see Table 1; Figure 1).

**Table 1**  
**Main Socio-Economic Development Indicators in China over the Period of 1996-2010**

Years	GDP (yuan)	Per capita GDP (yuan)	Urbanization level (%)	Per capita dominate income of Urban household (yuan)	Per capita net income of rural household (yuan)
1996	71176.6	5846	30.48	4838.9	1926.1
1997	78973.0	6420	31.91	5160.3	2090.1
1998	84402.3	6796	33.35	5425.1	2162.0
1999	89677.1	7159	34.78	5854.0	2210.3
2000	99214.6	7858	36.22	6280.0	2253.4
2001	109655.2	8622	37.66	6859.6	2366.4
2002	120332.7	9398	39.09	7702.8	2475.6
2003	135822.8	10542	40.53	8472.2	2622.2
2004	159878.3	12336	41.76	9421.6	2936.4
2005	184937.4	14185	42.99	10493.0	3254.9
2006	109655.2	16500	44.34	11759.5	3587.0
2007	216314.4	20169	45.89	13785.8	4140.4
2008	265810.3	23708	46.99	15780.8	4760.6
2009	314045.4	25608	48.34	17174.7	5153.2
2010	340902.8	29992	49.95	19109.4	5919.0

Source: China's statistics yearsbook 2011



**Figure 1**  
**Farmland Acquisition Area in China over the Period of 1996-2010 (unit: sq. km)**  
Source: China statistics yearsbook (1997-2011)

**(1) The Provision of the Scope of Farmland Acquisition**

About this topic, the paragraph 44, 45 and 46 of the chapter 5 of the LAND RESOURCE ADMINISTRATION LAW OF CHINA (revised in 2004) provides specifically. Under those items, except for rural household's for residency and township enterprises for develop, which must apply for land for the relative land resource administration, anyone needs land must apply for state-owned urban land. Or the government takes the land owned by the collective economic organization then

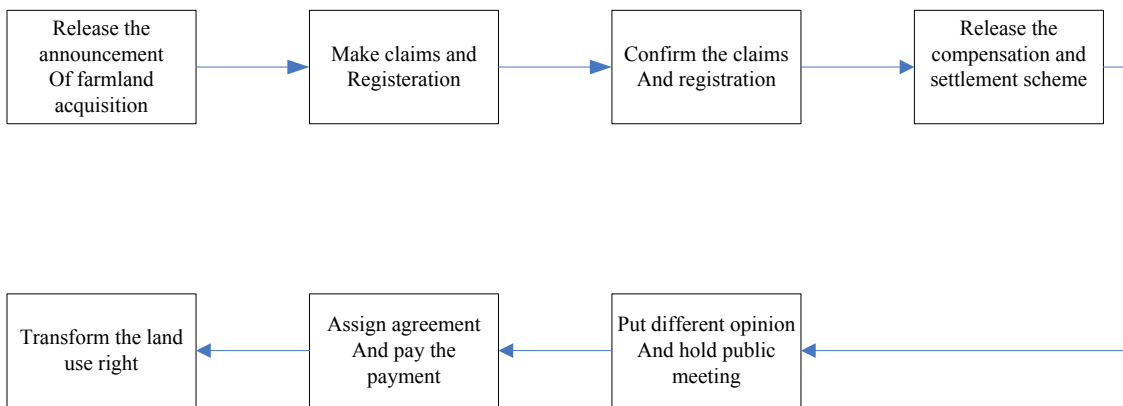
transfer the land use right to the potential land user. Besides this, the LAW provides the authority of approval farmland acquisition. Under the LAW, only the central government or provincial government (including province, autonomous region and municipality) has the authority to approve. Moreover, one of the following circumstances must be approved by the central government: (1) basic farmland; (2) arable land other than basic farmland and the acquisition area are more than 35 ha; And (3) all other land and the acquisition area are more than 70 ha. Apparently, under the current responding law, the

scope of the farmland is relatively strictly with farmland acquisition.

**(2) The Procedure of Farmland Acquisition**

In terms of the integration of farmland acquisition, which not only concern the interesting of collective economic organization and the farm households well-beings also, but relate the local government or upper-level governments' benefits, the LAW provides rigorous procedure of farmland acquisition: (1) keep stakeholders, especially farmer households and the corresponding collective economic organization informed of the farmland

acquisition, such as period, area and the future use by bulletin; (2) the stakeholders make claims and register the ownership or the use right for the land or the belongings within the validity; (3) the authority lawfully confirm the claims and the registration; (4) the authority release the scheme of compensation and settle; (5) the stakeholder put forward different opinions on the scheme of compensation and settlement;(6)the authority hold public hearing and assign an agreement with the stakeholders and pay the relative payment and(7) the authority assign the file then transform the land use right to the future users. The procedure can be listed as Figure 2.



**Figure 2**  
**The Procedure of Farmland Acquisition in China**

**(3) The Compensation Standards**

The compensation standards determine how much money or equivalent the collective economic organization and the farmers can acquire from the farmland acquisition. So, the compensation standard is essential to realize the justice of the LAW. Just because of this, the law regulates the compensation in detail. Firstly, the Law requires compensation for: (1) Compensation standard for farmland loss; for farmers, the farmlands are their fundamental income resources, especially for those regions which economic development level is relatively low. Once the farmlands are taken by acquisition, they have no other opportunities to survive. So, they should be obtained compensation. In view of the collective economic organization as the legally owner, the payment for land lose compensation should be divided between the collective economic organizations and its members, the farmers. On the other hand, the compensation standard for farmland loss is determinate by different land types but all are determinate by the original usage. For cultivated land, under the subparagraph 2, paragraph 47 of the LAND RESOURCES ADMINISTRATION LAW OF CHINA, the compensation standard is decided by 6-10 times of the average production value in the past three years before the farmland been taken; for other than

cultivated land, the compensation standards are provided by local provincial governments; while if the land is for vegetable before being taken, the compensation standards is provided by the New Vegetable Fields Development Construction Fund according to the relevant requirements of the local government. (2) Compensation standard for settlement subsidy; as mentioned above, when the farmers loss their farmland which is the main income resources or food resource, they must find extra jobs or cultivate less farmland to survive their family. Any circumstance, they need settlement which requires money, so they should obtain payment for their settlement. Under the LAW, the compensation standards are decided by the average farmland area which they own before the farmland being acquisition. As far as the compensation for settlement subsidy is concerned, as the compensation standard for farmland loss, different farmland types have different compensation standards based on 4-6 times of the average production value of the lands taken in the past three years before they are taken. But the payment cannot be more than 15 times of the average production value in the past three years before the lands are taken. As far as the compensation standard for settlement subsidy payments are concerned, they are provided by the local provincial government. If the land compensation and

settlement subsidy payments are together insufficient to maintain the dispossessed farmers' original quality of life level, the amount of settlement subsidy payment can be increased pending approval by the relevant authorities. But the total payment for land compensation and settlement subsidy shall not exceed 30 times the average production value of the acquired land in the past three years prior to acquisition. (3) The compensation standards for the belongings such as tree, green conceals, they are also provided by the local provincial governments, for example, Sichuan province provides that they are compensated by their actual loss and the specific schemes are made by local municipal governments. So, different regions have different compensation standards according to their different economic development level.

### 3. THE PROBLEM AND REASON OF THE FARMLAND ACQUISITION SYSTEM IN CHINA

Although China has achieved great performances in soc-economic fields since the reforming and open-up policy, it lags behind the main developed countries in the world such as the United States, the United Kingdom (see Table 2). That means China has more potential in economic development and these also denote that in the near future the more farmland need being taken. If there is no measures taken to prevent the farmland increasing by acquisition, it is clearly that it is going to threat china's food security and further threat to survive. So, this section presents the problem of the current farmland acquisition system and makes an attempt to explain it.

**Table 2**  
**The Comparison of Indicators Between China and Other Countries**

	Urbanization level (%)	Per capita GDP (current US dollar)
China	44	6789
The Unite States	82	41976
The Unite kingdom	90	32459
France	78	29598
Russian Federal	73	13617
Japan	67	30819
South Africa	62	9489
Korea	82	26774

Source: world bank & OECD data bank

#### 3.1 The Problems of the Farmland Acquisition System in China

##### (1) The Scope of Farmland Acquisition is More Wide than It Should Be

Any country in the world endows the states the authority to take private properties but at the same time the authority is strictly restricted. For instance, in the United States, the power of governments to take private real or personal

property has always existed in the United States, being an inherent attribute of sovereignty. This power reposes in the legislative branch of the government and may not be exercised unless the legislature has authorized its use by statutes that specify who may use it and for what purposes. The legislature may delegate the power to private entities like public utilities or railroads, and even to individuals for the purpose of acquiring access to their landlocked land. Its use was limited by the Takings Clause in the Fifth Amendment to the U.S. Constitution in 1791, which reads, "...nor shall private property be taken for public use, without just compensation". The Fifth Amendment did not create the national government's right to use the eminent domain power, it simply limited it to public use. In China, although the LAW provides that the states have the authority to take the private property including land use right for the public interests, there is no explanation what are the public interests. In view of this circumstance, no matter whether the situations are concerning the public interests or not, the local governments always make use the authority of taking farmlands from the collective economic organizations and the farmers. The collective organizations and the farmers have no choice because the farmland acquisition is compulsory.

##### (2) Compensation Standards are Too Low to Support the Farmers' Future Survival

As mentioned above and the facts also demonstrate that the compensation standards are the core of the acquisition system because they decide how much payments the collective economic organization and the farmers could acquire under the current laws, the compensation standards is provided by the original usages, it is quite reasonable and justice. Firstly, conceals are people's foundational necessities and the state always make a lower price to satisfy society needs; secondly, some terms are taken in order to protect the other's stakeholders' benefits. For example, the united states' CONSTITUTION (The Fifth Amendment) imposes limitations on the exercise of eminent domain: the taking must be for public use and just compensation must be paid. So, just compensation and market value is the main principles for farmland acquisition in the United States. By this way, the property owners' benefits are obtained protection as maxima as possible. Finally, on one hand, strictly speaking, nowadays in China, not only the collective organizations and the farmers are not the owners of the farmland. For the former, although they are legally the owners of the farmlands, they can't dispose thee farmlands; for the latter, they only have the land use rights within the scope of agricultural usages. Under this circumstance, how the collective economic organizations and the farmers can obtain the reasonable and justice compensation? On the other hand, the unreasonable and injustice payments for farmlands acquisition compensation are still needed allocated between the collective economic organizations

and the farmers. Obviously, the farmers are weak in attempting their benefits because they are individual.

### 3.2 The Reasons of the Farmland Acquisition System in China

As far as the reasons of the farmland acquisition system in China, the opinions vary. But this paper holds that the main reason is the lack of necessary land property regulation. Firstly, completely land property is the base of the market value. This is said that no property no market value. And market values are various, different period the property has different value. So, that is the reason that although the compensation improve, the farmer feel it is insufficient. But the properties or land properties are relatively fixed. If I have the completely property, no matter when the states take it from me, I will make a claim fully according to the current market value. It is rather fair for both sides. Secondly, completely land property is the feasible measure to prevent the local government implements the authority of farmland acquisition. If the land property is endowed to the collective organizations or the farmers, when the states implement the authority, they must pay market value for compensation. From economics views, this undoubtedly increases the cost for the action so the acquisition is possibly the most way to acquire the land and the other alternative methods could be found.

## CONCLUSION AND POLICY SUGGESTION

This paper analyzes the problems of the current farmland acquisition systems in China. On that base, the paper makes an attempt to explain why these problems would be existed so it insists that incomplete land properties are the main reasons. So, under this conclusion, this study put forwards the suggestion to improve the current farmland acquisition system in China. Apparently, it is not a good way to improve the compensation standard to satisfy the farmer's requirements or claim. It can't solve the problem in essence. The feasible measures is endows the properties to the collective economic organizations and the farmers step by step. Firstly, the urgent is to confirm which the rights the farmer can be shared and the states should consent to farmer can transfer and mortgage the farmland use right.

## REFERENCES

- Chan, Nelson (2003). Land Acquisition Compensation In China: Problems & Answers. *International Real Estate Review*, 6(1), 136-152.
- DING, Chengri (2007). Policy and Praxis of Land Acquisition in China. *Land Use Policy*, 24(1), 1-13.
- Fangye *et al.* (2006). China Leads in the World in per Capita Urban Construction Land Area. *Newspaper of Economic Reference*, 2006-3-15, 20.
- National Bureau of Statistics of China (2011). *China Statistics Yearbook*. Beijing: China Statistics Press.