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# Analysis on Causes of Rural Land Expropriation Disputes Based on Smith's Model

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**Abstract** Frequent occurrence of land expropriation disputes in rural areas of China has attracted attention of scholars to study causes. Most existing studies discuss causes from "structure – institution" level. In other words, land expropriation disputes are caused by existing imperfect institutions, regulations, and policies. Such analysis model points institutional causes, but pays little attention to policy implementation process, especially the subjective initiative of parties concerned. This paper described a decade-long land expropriation dispute case in detail. Through description of event and process and survey of reasons of actors, it revealed factors resulting in occurrence and upgrade of dispute, and analyzed factors and their interactions with the aid of Smith Process Model.

**Key words** Land expropriation, Dispute, Causes, Smith's Model

## 1 Introduction

With the development of industrialization and urbanization, the scale of land expropriation is constantly expanded and disputes of land expropriation also increase gradually. Some studies have shown that rural land expropriation disputes have become key points of farmers' activities of safeguarding their rights and also primary issues influencing rural social stability and development<sup>[1,2]</sup>. Frequent occurrence and severity of land expropriation disputes attract attention of scholars to find out their causes.

Most existing studies discuss causes from "structure – institution" level. In other words, land expropriation disputes are caused by existing imperfect institutions, regulations, and policies. The logic of structure – institution analysis is as follows: current financial system<sup>[3]</sup> and performance evaluation system of government officials<sup>[4]</sup> arouse motivation of local government to expropriate land, while institutional defect of land expropriation makes it easy for local government to seek after benefit from land expropriation. In existing institutional structure, farmers stay in weak position and their lawful rights and interests are infringed upon frequently by local government. As a result, it causes disputes between local government and farmers. These institutional defects mainly include: ambiguity of public interests<sup>[5-7]</sup>; incompleteness of farmers' land ownership<sup>[8,9]</sup>; unreasonableness of compensation system for land expropriation<sup>[10-12]</sup>.

The above analysis presents institutional cause of land expropriation disputes, but there are still following drawbacks: (i) much attention is paid to policies or institutions, but little attention to the implementation process of policies and institutions; (ii) structure – institution analysis generally attaches importance

to objective conditions of land expropriation disputes, while neglects cognitive ability and subjective initiative of the parties; (iii) structure – institution analysis usually imputes liability to executive body, while neglects fault of farmers; (iv) structure – institution analysis mainly employs static, normative and macro analysis method, while dynamic, empirical and concrete researches are few.

Based on a decade-long case collected through field survey in Chongqing, we analyzed factors of occurrence and upgrade of the land expropriation dispute and interaction of the factors. In the survey process, we mainly applied in-depth interview, observation, and file consultation methods. In the section of case description, we made a detailed description of "event and process" of the case, and investigated reasons of actors. In the section of case analysis, we analyzed the case from the perspective of policy implementation. Taking Smith's policy implementation process model as theoretical analysis framework, we analyzed the case from policy, action of executive body, action of farmers, and environmental factor.

## 2 Case description

Mr. Lin, born in 1937, was a dairy farmer in Production Team D, Village C, Township B, District A of Chongqing Municipality. Before land expropriation, he had one daughter and 4 sons, and all of them were married, but they still lived together. At the time of land expropriation, there were 16 people in his family, 390 m<sup>2</sup> house, 260 m<sup>2</sup> cattle pen, and more than 20 dairy cows. Many members of his family had experience and skills of breeding cow, so breeding cow was the major source of their family income.

In November, 1998, Chongqing Municipal Government approved to expropriate all land of Production Team D. However, the area authorized was less than the area in certificate of collective land ownership.

A month later, government officials of Township B started

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checking the land, houses and things attached to the land. Mr. Lin claimed that the township government did not issue land expropriation announcement, so he did not know the land expropriation until government officials checked property related to land. During the process of check, Mr. Lin claimed the ownership of the trees on a plot of woodland about 3 mu, but the village collective insisted that the trees should be owned by the collective.

In April 1999, Township B government provided 21000 yuan/person as the compensation for land and resettlement. 14 members of his family obtained the compensation. However, Mr. Lin's son-in-law failed to obtain the resettlement compensation because his registered permanent residence was not in the village, and his daughter-in-law also failed to obtain the resettlement fee because her registered permanent residence was changed to non-agricultural type before the land expropriation. Mr. Lin's son-in-law applied to move in the registered permanent residence to Village C as early as 1997. However, due to mistake of the household registration office, he failed to move in the registered permanent residence. The family did not realize the importance of status of household until they found it is impossible to obtain resettlement compensation without the registered permanent residence, so the family actively started to help the son-in-law apply to move in the registered permanent residence.

In December 1999, Township government signed an agreement on housing resettlement with farmers. There were two options available: monetary compensation and resettlement house. Mr. Lin's children chose monetary compensation because they want to select residence at will. Mr. Lin himself did not make any choice, nor signed the housing resettlement agreement. In the housing resettlement agreement, there was neither specific amount for monetary compensation, nor date of delivery.

In November 2000, the registered permanent residence of Mr. Lin's son-in-law was successfully moved to Village C. According to Mr. Lin, the family spent a lot of money to move registered permanent residence of his son-in-law.

In the early of 2001, government of District A and Township B issued regulations to encourage farmers to develop dairy industry, including simplifying various formalities and reducing related fees. In March 2001, according to spirit of this policy, the family built 260 m<sup>2</sup> standard cattle pen around his house and bought more than 10 cows. Because of their good performance, cadres and the masses nearby came to visit and learn Mr. Lin's experience, and Township B government rewarded the family with 3000 yuan.

In June 2001, Township B government notified Mr. Lin to receive the monetary resettlement. The compensation standard was 11 700 yuan/person. Mr. Lin refused to receive the monetary resettlement. They claimed that they can not afford a new house of the same size in 1999 with such amount, and the government delayed payment of monetary compensation and violated the legal provision.

In September 2001, Township B government asked farmers to move out and vacate the land. Mr. Lin's family refused to move

out at the excuse of disputes not settled: (1) the family asked for resettlement of Mr. Lin's son-in-law, but Township B government argued that the date of moving registered permanent residence was later than the deadline of resettlement; (2) the family asked for compensation of the new cattle pen, but Township B government argued that the cattle pen was illegally built on state-owned land without any approval process after land expropriation; (3) the family hoped to continue to breed cows and ask Township B government to provide a free and suitable dairy farm, but Township B government took this as unreasonable demand and exceeding the scope of compensation for land expropriation; (4) the dispute about woodland compensation was not resolved.

In February 2002, Land and Resources Bureau of District A made a decision on administrative penalty and ordered Mr. Lin's family to dismantle illegal building and vacate the land within the specified deadline. Mr. Lin's family failed to move out within the deadline and Land and Resources Bureau of District A applied the district court for compulsory enforcement.

In June 2002, Township B government submitted all the monetary compensation payable to Mr. Lin's family to the notary office of District A.

In July 6, 2002, the court of District A implemented compulsory enforcement. The court moved more than 30 cows to a discarded schoolhouse in Village C. The family repaired and reconstructed the schoolhouse to continue breeding dairy cows. Since Mr. Lin did not sign the monetary resettlement agreement with government, Township B government provided a transitional house for him. His children signed the monetary resettlement agreement with government, so Township B government considered that it was not obliged to provide house for them. As a result, his children had to live in the schoolhouse.

In September to October 2004, a long period of rainstorm together with construction blasting near the discarded schoolhouse caused landslide twice. 6 rooms of the schoolhouse were collapsed and several cows were killed or injured.

In January 2005, the primary school owner filed a lawsuit against Mr. Lin's family for illegally occupying the schoolhouse. Mr. Lin lost the lawsuit. In the same year, Mr. Lin's house was forced to be dismantled again. Mr. Lin's dairy cows were moved to a dairy farm nearby. Soon, the court notified Mr. Lin to sign breeding agreement with the breeding farm. The family felt angry and aggrieved, so they refused to sign the contract. After a period of time, because of worrying their dairy cows all the time, they went to the dairy farm to see their cows, only to find that 7 cows were lost, one was sick, and several cows were not their cows. Since the number of cows was not correct, the family refused to sign the contract again. Later, dairy cows were sold or slaughtered one after another and Township B government put the money of 50 000 yuan from selling these cows at the notary office.

Till now, Mr. Lin's family hasn't withdrawn this amount. Without house and property, Mr. Lin's family lived in great difficulty, and his three sons got divorced with their wives. Over these

years, the family almost spent all the time on appealing and petitioning except doing some odd jobs to make a living, but the dispute remains unresolved.

### 3 Case analysis

Through the above description, we can find that this case is so complex that it is difficult to explain with a single factor of policy defect. To avoid disorder in case analysis, we need a clear and comprehensive framework. In certain sense, land expropriation dispute can be deemed as an important indicator of the failure of policy implementation. Therefore, factors influencing effective implementation of policies are generally factors leading to disputes. If this is true, we can put the analysis of causes of dispute into a more comprehensive policy implementation process. Policy scientists have developed several models to reveal the main factors involved in policy implementation process and their interactions<sup>[13–15]</sup>. Among these models, the widely used model is Smith's Policy Implementation Process model. Smith pointed out that the implementation process includes 4 key factors: idealized policy, implementation organization, target group, and environmental factors. When policy is implemented, interactions within the components of the policy implementation system result in discrepancies and tensions. We will analyze this case from these 4 aspects.

**3.1 Policy factor** In 1998, the legal system on rural land expropriation is extremely imperfect in China, and those institutional deficiencies mentioned in the foregoing literature existed in that time. In this case, the most distinct institutional deficiency is the narrow compensation scope. In China, the compensation scope is limited to the rights directly attached to the land, yet the indirect damages, such as operating loss and unemployment risk, are excluded. In fact, land expropriation substantially changes farmers' living conditions. The damages farmers suffer include direct and indirect damages, material as well as spiritual loss. In this case, the land expropriation means the risk of losing main source of income and unemployment for Mr. Lin's family. Therefore, they insisted to breed cows and asked the government to offer a dairy farm. However, such request was regarded as beyond the scope of compensation by government. In nature, the dispute on dairy farm is the conflict between farmers' desire of being fairly compensated based on actual damage and the principle of limited compensation in law.

**3.2 Implementation organization factor** Firstly, the fact that local government occupied larger area of land than the area approved plants a seed for subsequent disputes. To conceal the approved area in approval document, Township B government did not put up land expropriation announcement, which violates the legal procedure. When farmers knew the fact afterwards, they raised doubts about legitimacy of land expropriation and took for granted that they had the right not to obey the illegal order.

Secondly, inadequate information disclosure provokes dispute. Researches have shown that the more information farmers

hold, the less resistance and the higher tendency of transferring land farmers have<sup>[16]</sup>. In this case, Township B government neither posted land expropriation notice and resettlement plan, nor informed the deadline of resettlement. Mr. Lin's family wrongly believed that anyone who had agricultural household registration will be resettled. Therefore, they spent a huge sum of money to move in the household registration of his son-in-law. Since Mr. Lin's family paid a lot, when they were informed that his son-in-law could not be resettled, they certainly felt disgruntled.

Thirdly, the delay in payment results in dispute. In this case, Township B government signed the resettlement agreement with farmers in December 1999, but paid the compensation till June 2001. In this period, the house price rose rapidly, so the compensation amount was seriously devalued. Besides, such delay in payment also violates the legal rule prescribed in Article 25 of *Regulations on the Implementation of the Land Administration Law of the Peoples Republic of China*, namely, payment of various expenses for land acquisition should be effected in full within 3 months starting from the date of approval of the land acquisition and resettlement plan. Mr. Lin's family argued that the delay in payment seriously damaged their interests, so they had the rights of cancelling the agreement and requiring a new housing resettlement.

Finally, poor communication and coordination between government sectors result in dispute. Land expropriation involves jurisdiction of land, agriculture, public security, civil affairs, and social security sectors. Without effective communication and coordination, different sectors are likely to make conflicting decisions which will confuse farmers and supply an evidence for farmers to prove these decisions illegal. For example, due to mistake of household registration office, Mr. Lin's family failed to obtain the resettlement compensation, and the family spent additional money in moving in registered permanent residence of Mr. Lin's son-in-law. For another example, for action of the family building the cowshed, the authority in charge of farming, animal husbandry and fishery organized people to visit and learn and provided reward, while the authority in charge of national land and resources imposed administrative penalty. Both decisions conform to their respective extent of power and procedure, but such completely different decision on the same action makes the family puzzled and aggrieved.

**3.3 Farmer factor** Generally, farmers know little about laws and regulations and usually misunderstand them because of low education level. In this case, when District A government and Township B government issued regulations to encourage dairy farmers to expand dairy production, there was the precondition that farmers should possess legal right to use the land, just as the money for building the cattle pen should be legitimate. Nevertheless, the family confused the legitimacy of breeding cows with that of occupying land. They stubbornly held to their viewpoint that building cattle pen on state-owned land was legitimate because Township B government encouraged them to breed cows. Such stubbornness

impelled the family to appeal and petition again and again, but all appeals and petitions ended in failure. In addition, farmers usually justify their rights and interests with informal rules, such as folkways and customs, social comments, and academic views. Once handled in accordance with formal rules in bureaucratic logic, their demands will generally be rejected.

**3.4 Environmental factor** Unclear land property right is a common phenomenon in rural areas of China. Since the foundation of People's Republic of China, land policy has experienced several modifications and farmers' land tenure also changes constantly. However, because there were no clear land circulation contracts or transaction records, it is greatly difficult to accurately define the ownership of land and things attached to land. Before the land expropriation, the latent contradictions do not manifest. But once the land is expropriated, when it comes to compensation, dispute about ownership occurs. If the dispute about land ownership could not be resolved successfully, the conflict will directly affect the proceeding of land expropriation. In this case, the dispute over the ownership of the trees on the woodland occurred between Mr. Lin's family and the collective. The family argued that the trees belonged to them, but the village collective insisted that the family did not sign a woodland contract with the collective. The two parties applied for adjudication to Township B government. Mr. Lin's family was unsatisfied with the result of adjudication, so they launched an administrative lawsuit. Then, the dispute between Mr. Lin's family and the collective evolved into the dispute between Mr. Lin's family and Township B government.

The rapid rise of house price and natural disaster exacerbate the dispute. With constant increase of house price, the money deposited in notary office was devalued constantly. To make up the losses, Mr. Lin's family increased the sum of claim. The larger amount of money is, the more difficult the resolution to the dispute is, and the longer the time needed for resolution. It falls into a vicious circle. The collapse of the schoolhouse caused serious damage to Mr. Lin's family. Mr. Lin's family thought that there was a causal connection between the damage and land expropriation. However, Township B government argued that the reason why it supplied the schoolhouse was only a moral support, not statutory obligation, and thus the government was not responsible for the loss resulted from house collapse.

## 4 Conclusions and policy recommendations

From the above case description and analysis, it can be seen that disputes over land expropriation are caused by many factors, including policy, implementation organization, farmers, and environmental actors. These factors are interwoven together and interact with each other. Unreasonable policy places government and farmers in an unequal status, and provides convenience for government to abuse the land expropriation power. Illegal or improper

administrative actions of implementation organization provide farmers an evidence to question the legitimacy of land expropriation and to justify their actions. Farmers' misunderstanding to policy leads to unnecessary loss and dispute. Environmental factors exacerbate dispute and increase the difficulty in resolving dispute. These findings imply that the solution to the disputes depends on a systematic reworking of resolution mechanism. These recommendations include expanding land compensation scope, strengthening propaganda and explanation of policies, intensifying supervision over the process of land expropriation, improving confirmation, registration and certification system of rural land and things attached to land.

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