Composite property rights and boundary-treading resistance: a case study of C county in Eastern Sichuan

Yintao Wu

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Composite Property Rights and Boundary-Treading Resistance

—A Case Study of C County in Eastern Sichuan

WU Yintao

A thesis submitted in partial fulfillment of the requirements

for the degree of

Doctor of Philosophy

Principal Supervisor:

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October 2017
DECLARATION

I hereby declare that this thesis represents my own work which has been done after registration for the degree of PhD at Hong Kong Baptist University, and has not been previously included in a thesis or dissertation submitted to this or any other institution for a degree, diploma or other qualifications. I have read the University’s current research ethics guidelines, and accept responsibility for the conduct of the procedures in accordance with the University’s Committee on the Use of Human & Animal Subjects in Teaching and Research (HASC).

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ABSTRACT

Composite Property Rights and Boundary-Treading Resistance

—A Case Study of C County in Eastern Sichuan

This thesis studies land expropriation disputes from the angle of property right, exploring its origins from the relationships between township (town) government and villagers, village collective and villagers, and different villagers, focusing on peasants’ resisting low land expropriation compensation instead of their fighting against land expropriation. Specifically, this research will discuss three questions. What is the nature of property right? How had the landed property rights been regulated and adjudicated? How do women gain and loss their land rights and interests?

In terms of the nature of property right, two kinds of idea are widely spread in academic circle; the first follows a materialist-legalist viewpoint and considers property rights as a bundle of rights, whereas the second adopts a constructivist perspective and considers property rights as a network of social relations. With defected land institutions and peasants’ complicated social life, both of the two ideas cannot provide a suitable explanation for some new phenomena in land expropriation disputes, leaving a gap between property right theory and practice. Building on the foundation of Zhang Xiaojun’s (2007) idea of “multiple property rights” and drawing upon Pierre Bourdieu’s discussion of capitals, this research will propose the idea of “composite property rights” to systematize the discussion. This concept examines the transformation of symbolic, social, and cultural capital into economic capital, and in turn the transformation of economic capital into property rights. In so doing, I hope to
provide a better framework for understanding the mechanisms through which various capitals can be mobilized to “realize” the landed property rights.

Since this research regards composite property rights as the nature of property right, the answer of the second research question then transfers into: what are the characteristics of the practical logic of composite property rights? Basing the rationale of resistance on peasants’ local perception of land rights, peasants explore an action strategy, boundary-treading resistance. This concept reveals their tactics on three different relationships. First, as to the relation with the state, the peasants’ resistance treads on state laws and land institution by taking advantage of their capitals. Second, in terms of the relation with local government and developers, their strategies rely on probing counterparty’s loopholes, treading on boundaries of administrative enforcement of policy. Third, in regard to the relation among villagers or familial relationship, their behaviors challenges the village rules and traditions, treading on the boundaries of traditional moral principles.

In order to use the two concepts, this research specifically analyzes women’s striving for land rights and interests. After building a framework of membership, this research transfers the third research question into a specific one: since rural land is owned by rural collective economic organization, how can an individual become its member? In sum, women’s tactics include (1) taking full advantage of village collective’s self-contradictory decision which admits their huji but refuses their cuji, (2) revoking their previous promise, and (3) exploring the loophole of household register management. During their striving for membership, they utilize their various capitals: (1) they use money as deposit to get villagers meeting’s support, or gift to gain cadre's
favor, to move in/back their huji, (2) with their relatives’ help, they can get information and other support.

By attaching all kinds of capitals to the property right transformation from economic capital to economic property right, peasants’ resources can be transformed into capitals; and these capitals enter their citizen life, alleviating their pauperization. At the same time, boundary-treading resistance characterizes land-lost peasants as peasant-citizens who keenly take petty advantage of others and merely try to be smart, so their resistance has a long way to catch up with safeguarding rights of citizen.
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I would never finish this thesis without the support of my interviewees in C County. I want to thank villagers and officials in C County for sharing with me their actions, reflections, notions, stories, and knowledge on the resistance against low land expropriation compensation. My father-in-law who ever worked in C County provided invaluable help to me when I was preparing the field research. My master supervisor, Professor Guo Hong, recommended several experts on land institution in the third round fieldwork.

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List of Abbreviations
PR      Property Rights
CPR     Composite Property Rights
RCEO    Rural Collective Economic Organization
CHAPTER 1 INTRODUCTION

1.1 INTRODUCTION

This thesis studies land expropriation disputes from the perspective of property rights, exploring their origins from the relationships between township (town) governments and villagers, village collectives and villagers, and among different villagers, focusing on peasants’ resisting low expropriation compensation instead of fighting against land expropriation. This research will focus on three questions. What is the nature of property rights? How have property rights in relation to land ownership been regulated and adjudicated? How do women gain and lose their land rights and interests? Through examining peasants’ understanding of property rights, this thesis examines disputes around the distribution of land expropriation compensation, develops two conceptual frameworks, composite property rights and boundary-treading resistance, and, finally, uses the two concepts to analyze women’s striving for land rights and interests.

This introduction begins with a discussion of some macro structural-institutional factors, in particular, three ‘New Enclosure Movements’ and defective land institutions in China. After that, it analyzes the deficiencies in current property rights concepts and illustrates the particularities of rural resistance and new phenomena in the fieldwork so that we can develop two new concepts. Next, it presents specific research questions, followed by an outline of this thesis.
1.2 STRUCTURAL-INSTITUTIONAL FACTORS OF LAND EXPROPRIATION DISPUTES

This part argues that land expropriation disputes have resulted in part from structural factors, nationwide ‘new enclosure movements’, institutional factors, and defective land institutions. By so doing, we aim to describe land expropriation disputes from a macroscopic viewpoint and show why we chose a property rights perspective.

1.2.1 The three ‘New Enclosure Movements’ operated by China’s local governments

Land expropriation disputes have emerged in the context of specific macro-level structural-institutional factors. By structural factors, we are referring to the three ‘new enclosure movements’ operated by China’s local governments after they reformed and opened up, mainly focusing on their macro-level reasons for fiscal reform and the central-local relationship.

During China’s rapid urbanization, governments transform the land from village collective ownership to state ownership then, transfer use rights in the land to public agencies and commercial lessees. Governments earn substantial revenue from land leasing and taxation, revenue which is reinvested in expansion of both bureaucracy and production. Investors acquire low cost leases on development sites. Yet expropriated villagers receive comparatively little in compensation (Liao, 2005). Some Chinese commentators have dubbed this a ‘new enclosure movement’ (Ren, 2003). The term ‘new enclosure movement’ in this thesis, to distinguish from historically used ‘enclosure movement’, is referred in particular to three ‘enclosure...
movements’ in Post-Mao China. The historical term enclosure movement was the legal process in England during the 18th century of enclosing a number of small landholdings to create one larger farm. Once enclosed, use of the land became restricted to the owner, and it ceased to be common land for communal use. The ‘new enclosure movement’ differs from it because of (1) the ownership of rural land is transformed from village collective ownership to state ownership, (2) the transform is stipulated by the state with peasants’ great land right loss at cost, and (3) after land right transformation local governments abuse the land to gain interests.

The graph below is taken from Wen Tiejun’s (2010) research. It can be seen that from 1980 to 2006, there existed three large-scale land expropriations in mainland China. In the following section, we will briefly introduce some basic information about the three enclosure movements.
1.2.1.1 The first enclosure movement in the 1980s

Two macro-level reforms contributed to the first enclosure movements in the 1980s, the Fiscal Responsibility System and the rural administrative system reform.

In the early 1980s, to cope with an urban economic crisis and a fiscal deficit, and to relieve employment pressure, the central government introduced a series of reform measures to decentralize power and transfer “profits” (fang quan rang li). Among the reform measures, fiscal decentralization devolved financial management to lower levels of government to heighten local accountability for public welfare and reduce the
indirect tax burden. The fiscal and taxation system reform changed the expenditure structure between central and local governments and expanded the expenditure autonomy of local governments, which, as a result, become an investor in local industrialization. As a consequence, thousands of municipalities and county governments became interested in the accumulation of local capital (Wen and Zhu 1996).

In the meanwhile, with the completion of the rural administrative system reform, nationwide withdrawing communities and production brigades built townships (towns) and villages (che she jian xiang, che dui jian cun) between 1984 and 1986, and villages and townships (towns) formed local governments with a historically record number of staff. However, the state did not provide fiscal resources to support their work, instead, seeking for them to figure things out for themselves. This meant local governments urgently needed to reap benefits.

Under these circumstances, the first enclosure movement in the 1980s, characterized as “establishing enterprises with land” (yi di xing qi), emerged. With local government dominating the development of small-scale light industry, a lot of land was expropriated at extremely low cost to set up low-end manufacturing enterprises. The enclosure movement peaked between 1984 and 1986.

According to Wen Tiejun’s (2010) research, this wave of land expropriation did not cause large-scale rural resistance because local governments at all levels and rural grassroots organizations led this land capitalization, and the enterprises also fulfilled their obligations to local public welfare and administration, supporting agriculture and
solving the employment problems of a large number of land-expropriated peasants. So, it did not cause large-scale social conflict, but increased peasants’ incomes over a number of years.

1.2.1.2 The second enclosure movement in the 1990s

Two important factors contributed to the second enclosure movement, the land management law reform and the tax-sharing system.

The first concerns the land management law reform in the late 1980s. Unlawful appropriation of cultivated land and misuse of land in the first enclosure movement interfered with the general idea of the nation-building goals (Wang 2006), with the value-added profit from land transformation being mainly controlled by rural collectives and the responsibility for food security undertaken by the state. Hence, since the late 1980s, the central government has strictly controlled the conversion of cultivated land into non-cultivated land and reclaimed its authority over the conversion. In 1988, it set up the State Bureau of Land Administration to fully control the non-agricultural usage of land. As a result, the mechanism for the capitalization of land resources has fundamentally changed: In the past, land could be directly transformed into industrial and commercial enterprise assets by township (town) collectives; now, only local governments, usually county or municipal governments, can determine land use conversion and keep most of the realized income. Consequently, local governments can conveniently change land into money (tu di bian xian), exploiting an easy way of making money.
The second factor is the 1994 tax-sharing system. In response to the loss of central government revenue, the central government implemented the 1994 tax-sharing system that separates tax collection from other financial affairs. Soon after, China adopted a value-added tax as a major tax category levied on all local enterprises, whereby 75 percent of the tax is remitted to the central government and 25 percent remains for the local government. Under the new value-added tax system, the central government has reduced its overall risk, while local governments that run enterprises receive less revenue and face increased risk of bankruptcy (Zhou 2009). This situation increased the local governments’ need to find disposable income sources, which mainly encompasses two approaches: seizing land value-added income and increasing the scale of local tax, such as income tax and construction and real estate business tax, through investment promotion and urban expansion. So, “land revenue,” the revenue related to land seizure or conversion and obtained by local governments through tax collection, fees, or sales, has become the main and the most convenient source of income for them.

The second enclosure movement, followed by the development zone and real estate craze, peaked between 1992 and 1993. During this movement, because of the change in the mechanism of land capitalization, the distribution of value-added income also changed: one-off land expropriation compensation was shared by different levels of government and the profits from land revenue were mainly shared by local governments and industrial capitalists. Together with other agricultural problems, such as the burden of taxes and fees, rural social stability and rural population flows, land expropriation disputes began to appear (Wen 2010).

1.2.1.3 The third enclosure movement
In response to the Asian Financial Crisis of 1997, the government has, since 1988, carried out an expansionary financial policy, mainly by increasing treasury bills and increasing public investment, strengthening the macroscopic regulation of the economy and speeding up the expansion of urbanization. In 2002, the rate of sales tax to local fiscal revenues soared, becoming the biggest tax category for local governments; until 2006, this rate rose to 43.3 percent. The increase in sales tax, mainly derived from the building industry and tertiary industry, means local government made a great effort with urban expansion. World Bank research shows that after 2002, to increase fiscal revenue, local governments’ enthusiasm for land development, infrastructure investment, and enlarging local construction ran at an unprecedentedly high level (Urbanization and land system reform research group of the World Bank 2005). After 1998, land conversion income continued to grow, and in 2002, it reached 241.68 billion yuan (China Economic Times 2004; quoted in Zhou 2009). At the urbanization strategy level, local governments took advantage of their power to expropriate rural land at extremely low prices, using land as collateral to draw down bank loans through financing entities like land reserve centers, urban construction and investment companies, and development zone management committees (Wen 2010). At the land grab strategy level, local governments come up with all kinds of “creative” ways to develop land, such as turning large plots into smaller plots for verification and approval at the local level, cross-province “occupation and compensation balance” (zhan bu ping heng) trade-offs, and so forth (Zhou 2009).

In the high tide of land expropriation jointly promoted by local government and financial capital, the distribution of land value-added income became even more
uneven, directly causing more problems. First, only 20 to 30 percent of land value-added income was retained in townships and villages and compensation for peasants only came to between 5 and 10 percent (Li 2007). Second, unfair distribution, together with much illegal occupation of land, resulted in collective petitions and conflicts over demolition and relocation. Third, with the rapid progress of urbanization, the number of peri-urban land-losing peasants increased significantly. In the early 2000s, more than one-third of the petitions was due to land problems, of which 60% was caused by land expropriation (Wu and Yang 2005).

To sum up, the above brief analysis of ‘new enclosure movements’, mainly referring to Wen Tiejun’s research, reveals that in the economic cyclical fluctuation, under the pressure of financial deficits (1980s), weak macro-control (1990s), and reducing financial risk (2000s), central government promoted three fiscal and taxation system reforms, with local governments leading three large-scale land expropriations under the fiscal constraints. As background information, Wen’s research provides a valuable insight into macro-level structural factors affecting land expropriation; however, at the micro level, such as land expropriation disputes in specific village communities, his research leaves room for a village-level analysis of land expropriation disputes.

1.2.2 Defective land institutions

Besides structural factors like the ‘new enclosure movements’, defective land institutions also contribute to land expropriation disputes. Specifically, the institutional factors include two aspects: (1) Some land institutions’ regulations have created misunderstandings and are out of step with the current situation, and (2) once land
institutions are misused by money-oriented governments, the relationship between local government and peasants becomes seriously imbalanced.

1.2.2.1 Problematic regulations of land institutions

Here, I focus on two issues, the unfair distribution of land value-added income and ambiguous regulations in relation to powers of land expropriation.

First, the regulation on land value-added income is problematic. Article 47 of the Land Management Law (1998) stipulates (1) compensation should be made according to the original purposes of the requisitioned land, (2) compensation fees for requisitioned land include land compensation fees, resettlement fees, and compensation for attachments to or green crops on the land, (3) the combined total of land compensation fees and resettlement fees shall not exceed 30 times the annual average output value for the three years prior to the expropriation, and (4) the standards for compensating for ground attachments and crops on the land requisitioned shall be determined by various provinces, autonomous regions, and municipalities. These regulations do not consider the following content: (1) With economic and social development, peasants’ living costs are rising and it is obviously unfair for them to pay for rising living costs with a fixed land income. (2) The land compensation standards basically do not take into account market conditions like the location of land and the purpose of the expropriated land. (3) With land compensated for according to its original purposes, local governments and land users mainly enjoy the land value-added income, whereas the rights of collectives and households, the original owners of the rural land, are seriously
infringed. So, these regulations on land value-added income easily cause land disputes in practice.

Second, regulations on land expropriation power are misleading. Article 10 of the Constitution (1982) stipulates that land in the cities is owned by the state, and paragraph 2 of Article 10 also stipulates, “The state may, for the public interest, take over land for its use in accordance with the law.” This creates a contradiction where the ownership of rural collective land that is transformed into urban land belongs to the state, according to Article 10; however, based on paragraph 2 of the same article, only if the premise of the public interest is met is the land expropriation power legal. So, if the transformation is not public interest based, there is a dilemma: According to article 10, it must be expropriated to a state-owned entity, but paragraph 2 denies the expropriation because of the public interest condition. For business development purpose, rural land must be firstly expropriated into a state-owned entity; however, once it is expropriated into a state-owned entity, it cannot be used for business purposes. Hence, land expropriation for commercial purposes is an abuse of land expropriation power in law.

Because the laws on land expropriation were made under a planned economy system and emphasize the value use of land, the situation has become problematic under a market economy system, which stresses the exchange value of land. As a result, it leads to ambiguity and the laws appear out of date when land expropriation disputes arise.

1.2.2.2 Imbalanced relationship between local governments and peasants
Although the land institutions are problematic, they do not cause problems by themselves; however, if misused by money-oriented governments, they seriously unbalance the relationship between local governments and peasants, leading to the local government attaining a monopoly position and peasants having a weak negotiation position when it comes to land expropriation.

First of all, defective land institutions have resulted in a monopoly position for local governments when it comes to land expropriation. As I mentioned above, under the fiscal constraints imposed on them, local governments need money to finance their developments. Defective land institutions encourage local governments to eagerly expropriate land. On the one hand, as mentioned above, compensation should be awarded according to the original purpose of the requisitioned land; on the other hand, the state laws allow the government to get land leasing revenue at the market value of the urban construction purpose. So, it guarantees that the government can maximize profits from the land exchange. At the same time, the state laws give local governments a dominant position in the process of land expropriation. As a result, local governments have a monopoly position in terms of land expropriation, having the power to expropriate rural land and scramble for land value-added income.

Secondly, land institutions make for peasants having a weak negotiation position in land expropriation. At least two points contribute to this situation. (1) The concept of “collectively owned by peasants” is ambiguous. Article 8 of the Law of Administration regulates that “Land in the rural areas and suburban areas, except otherwise provided for by the state, shall be collectively owned by peasants.” At the same time, Article 26 of the Regulations on the Implementation of the Land Administration Law (1998)
stipulates that the “Land compensation fee goes to the rural collective economic organization.” As I analyze in Chapter 7, the village collective economic organization structure does not exist in many rural areas and its membership is a highly controversial issue. So, the unclear subject of rural land ownership directly leads to a failure to restrain land expropriation. (2) The land property rights dispute arbitration mechanism is biased towards the government. Article 16 of The Law of Land Administration (1986) regulates that “Disputes arising from the ownership or use right of land shall be settled through consultation among the parties concerned; should consultation fail, the disputes should be handled by the people’s governments … Where the parties concerned refuse to accept the decisions by a related people’s government, the dispute may be brought before the people’s court within 30 days after the notification of the decision is received.” Many land expropriation disputes have occurred between local governments and peasants; when the disputes are handled by local governments, the result of the arbitration is usually not favorable to peasants. Even if the disputes are brought to the courts, they are under the thumb of local governments. So, it is very difficult for peasants to find a favorable legal outcome within the current land institutions system.

As a result of local government-dominated land expropriation, the expression and implementation of peasants’ interests are easily ignored and land expropriation disputes inevitably occur.

To sum up, land expropriation disputes are a combination of the result of a flawed macro structure, local governments’ actions, and land institutions. Among these factors,
land institutions play a key role regulating land property rights, as I analyzed above. That is why I have chosen a property rights perspective.

1.3 LAND EXPROPRIATION DISPUTES AND PROPERTY RIGHTS AND RESISTANCE

Part one briefly analyzes the defective land institutions’ contribution to land expropriation disputes, which has led us to choose a property rights perspective. This part will first show the gap between the current property rights conceptual frameworks and some new phenomena in the fieldwork, and then it analyzes the particularity of land expropriation resistance in C County and the gap between current resistance concepts and peasants’ actions in practice. This leads us to choose two new concepts, composite property rights and boundary-treading resistance. After that, I present the research questions.

1.3.1 Gap between the current conceptual frameworks and new phenomena in the fieldwork

Within two macro-level factors of land expropriation disputes, the structural one is periodical and fluctuating while the land institution one is stationary and easily manipulated by local governments because of its two remarkable characteristics: (1) Land institutions are out-of-date, being based on a planned economy, and (2) they are ambiguous in terms of the ownership and land transfer rights attached to rural collective land. So, adjusting and reforming the unreasonable regulations on land property rights are very necessary.
Since this research chooses a property rights perspective to examine land expropriation disputes and combining collected data, it begins with a fundamental problem: What is the nature of property rights? Without a clear explanation of this question, nationwide land expropriation disputes cannot be fundamentally solved. Much research seeks to provide an answer to this question, but there still exists a gap between the current conceptual frameworks and new phenomena in my fieldwork.

As for the nature of property rights, there are two mainstream ideas, “bundle of rights” and “network of social relations.” The following will briefly introduce their meaning and their disadvantages in terms of the resolution of land expropriation disputes.

1.3.1.1 “Bundle of rights” perspective and its disadvantages

In the materialist-legalist viewpoint, the “bundle of rights” idea assumes a preexisting “bunch” of rights and views property rights as legally exclusive rights, which include the right to use and a beneficiary right. Some scholars use a preexistent and whole law framework to analyze China’s land conflict, and then propose the “truncation of ownership” concept (Zhou 1995). Similarly, according to the assumption that there exist various laws, regulations, and different subjects of property rights, some scholars have found different kinds of ambiguous property rights (Ho 2005). This conceptual framework assumes different components of property rights are equal (Zhang 2012).

Meanwhile, its disadvantages have also sparked widespread criticism. On the one hand, this conceptional framework mainly centers on relations between people and objects instead of the relation among different people involved in a special social field. This
approach simplifies the complexity of land rights (Ma 2009) and entangles scholars in a futile debate about public and private ownership (Li 2008). This kind of debate does not target the point of the nature of land rights (Zhang 2004). On the other hand, many scholars’ basic ideas of resolving the land demolition dilemma rely on solutions within an institution (zhidu nei jiejue), that is, finding a formal resolution through perfecting laws, policies, and institutions. However, in some circumstances, the solution within an institution mainly causes extra-institutional protests (zhidu wai duikang), and extra-institutional protests can play an active role in interest negotiation when solutions within a particular institution are not working. Specifically, an effective approach in the rights protection actions in house demolition cases is using social capital (Chen 2010).

As the following analysis will show, besides legal regulations, peasants’ perceptions, such as their ideas of “state-owned” rural collective land, “private” individual residential housing, and village and family membership, also affect the outcome of land expropriation disputes. These factors can lead to land expropriation disputes as well as contribute to the resolution of them, going beyond the legalistic perspective of property rights.

1.3.1.2 The “network of social relations” perspective and its disadvantage

The constructivist perspective, the “network of social relations,” considers property rights to go beyond the legally stipulated “bundle of rights.” Not only does the exercise of property rights depend on the resources possessed by the actors, which can be brute force, social capital, or personal ability, it can also be constrained by social norms that contradict the legal regulations.
However, there are some shortcomings, which are as follows: First, they overemphasize a single dimension of property rights relations. When discussing a land rights initiative, it seems that they are capable of overcoming all kinds of rules and laws; on the other hand, when focusing on social restraining norms, land rights subjects suddenly become extremely powerless. Secondly, there is a lack of mid-level theoretical analysis; that is, factual statements at the micro level combined with theoretical explanations at the macro level result in a limited contribution to property rights theory. Thirdly, there is some confusion between property rights relations and social relations. So, to complete this perspective, I need to know how to allocate the relations between the subjects and the social rules reasonably, how to focus on exploring the establishment of a property rights institution, and how to discover the nature of property rights in a conflict.

Within the “network of social relations” perspective, some phenomena in my fieldwork are also difficult to explain. For example, in terms of moving graves, many peasants use local customs, such as feng shui and family divisions, to get additional compensation. How can we cope with the factor of local customs in a property rights transfer? Similarly, some peasants can skillfully use symbolic capital to gain more land compensation, which is also difficult to explain within this conceptual framework.

Considering the above shortcomings, especially the single-dimension view and unclear causal relations, I argue that the nature of property rights is something that involves a composite dimension with a clear causal relation.
All in all, the current conceptual framework for property rights is not only theoretically disadvantageous, but it also makes it difficult to explain phenomena in my fieldwork, leaving a gap between the theory of property rights and its practice. As a result, this research proposes a concept, composite property rights, as an answer to the nature of property rights, with chapters 3 and 4 specifically examining its meaning and operation mechanism.

1.3.2 The particularity of land expropriation resistance

Since I argue that composite property rights constitute the nature of property rights, how are they realized? Through my fieldwork, the realization is a kind of rural resistance. Much current rural resistance research provides relevant concepts, but they are not suitable for the resistance encountered in my fieldwork. The following will illustrate the situation: First of all, I briefly introduce the basic meaning of resistance and then I analyze in detail the particularity of land expropriation resistance in C County, followed by some comments on two mainstream resistance concepts, rightful resistance and treading on but not crossing a boundary.

1.3.2.1 The basic meaning of resistance

To clarify the category of peasants’ resistance in C County, it is necessary to firstly make a brief description of it in practice.

First, peasants’ resistance is not against land expropriation, but against low compensation for land expropriation. As a cadre said, “the easiest thing is to consult a
peasant’s agreement because they are all willing to be expropriated; while the most difficult thing is to allocate compensation for they think it is too low and refuse to receive it.” So, they will not seriously struggle against the government if their lands are being expropriated, but they are also reluctant to receive low compensation.

Second, the forms of peasant resistance are various. Sometimes their actions are unlawful, such as bribing government officers and illegally building houses; sometimes their strategies are shameful, liking using faked divorces and making false declarations about ancestral graves; but under some circumstances, they resist very tactfully, by, for example, exploring the loopholes in government and officers’ policy.

1.3.2.2 Some characteristics about peasants’ resistance in C County

Besides the practical meaning of resistance as mentioned above, I find that the following three characteristics to be the main particularities, obviously affecting its strategy and outcome. Simultaneously, these characteristics are theoretically inspiring in forming a concept of property rights’ realization.

First, peasants resist proactively rather than reactively. In C County, it is often found that peasants proactively resist the government before and during the land expropriation. One reason for this is that peasants take an active and advantageous position in the interaction with government. So, they say, “you (the government) are asking for me as long as my house is not being demolished.” Consequently, this situation obviously affects the choice of struggle strategy, for in their opinion, “even if I
do something excessively or make a request that is difficult to accept, you (government) have to endure.”

Second, peasants have no beneficial laws to consult. In relation to land expropriation, the central government does not have a specific policy and set of regulations that can be directly used by peasants to fight against local government. Consequently, peasants have no legal basis for their resistance, and they are in a “no beneficial law to consult” (wu you li zhi fa ke yi) situation (Wang and Jin 2016). Take C County, for instance. The policy of land expropriation is provided by the municipal government, and revised by the county government according to its own situation. Furthermore, both the right of interpretation and the executive power lie with the county government. So, peasants’ hopelessness can be seen through their popular expressions, such as “the land, after all, belongs to the state.”

Third, peasants resist mainly for seeking benefit instead of safeguarding rights. In the era of post-agricultural tax, this logic has gradually changed “from rights protection to benefit seeking” (Tian 2010). As for the situation in C County, although sometimes peasants say, “I want to eat” and “I want to survive,” to bargain with the government and gain more compensation, it is more practical to “just ask for a little more.”

1.3.2.3 Gap between current resistance concepts and peasants’ actions in C County

Some known rural resistance concepts are not suitable for the situation in C County, leaving a gap to fill. Chapter 5 will provide a detailed literature review in relation to this
part, briefly discussing two concepts, rightful resistance (O’Brien and Li 1996) and treading on but not crossing the boundary (cai xian bu yue xian) (Ying and Jin 2000).

Rightful resistance is defined as “a form of popular contention that operates near the boundary of authorized channels, employs the rhetoric and commitments of the powerful to curb the exercise of power, hinges on locating and exploiting divisions within the state, and relies on mobilizing support from the wider public” (O’Brien and Li 2006).

It can be seen that rightful resistance contains three categories of theoretical resources. First, peasants explore the political opportunity structure, like divisions within the state and the rhetoric of the powerful. Second, peasants are good at mobilizing resources, such as inviting journalists and contacting news stations. Third, peasants protest skillfully. However, in C County, the former two kinds of advantage do not exist: although they also resist skillfully, their actions are active and intrusive in most circumstances. The most important difference is that peasants’ resistance in C County is sometimes shameful, even illegal. As a result, I do not adopt the “rightful resistance” concept.

“Treading on but not crossing the boundary” contains two major meanings: on the one hand, peasants resist by treading on the boundary to gain the attention of government after their interests have been infringed; on the other hand, they struggle by not crossing the bottom line to avoid providing ammunition to the government. So, this concept emphasizes the great tactfulness of resistance in a passive situation.
However, in my research, peasants’ resistance is proactive in the process rather than reactive after the event, so they can play an active role in the interaction with government to break through policy barriers and to maximize their compensation. The obvious difference between resistance in C County and Ying’s concept is the way of responding to a legitimacy dilemma. Because “treading on but not crossing the boundary” is a kind of collective resistance, which can be considered by government to be a growing mob of demonstrators gathering, their actions must not cross the boundary; however, resistance in C County is mostly a kind of individual or household-unit resistance based on cognitive differences in rural land rights, so the legality of an action is usually not an issue.

All these special phenomena in C County mean that a concept based on a political opportunity structure, like rightful resistance, or a concept emphasizing the tactfulness of peasants’ behavior, like treading on but not crossing the boundary, are not suitable for resistance in this county. As a result, I propose a new concept, boundary-treading resistance, to describe their actions, and chapters 5 and 6 will discuss its meaning in detail.

1.3.3 Research Questions

To explore a new aspect of property rights within the new phenomena, my research will focus on three interconnected questions. The first question is about the nature of property rights, and the second is about its realization; to apply the new concepts of property rights, the third is about women’s land rights and their resistance.
1.3.3.1 Main questions

Given the prevalence of “urban entrepreneurialism” (jing ying cheng shi) in China, land expropriation has intensified the disputes between the state and peasants. A major contention in land expropriation disputes centers on property rights. This thesis will examine land expropriation and the disputes by centering on the idea of property rights.

(1) The meaning of landed property rights in China is notoriously ambiguous. In what ways can a study of land expropriation and disputes enhance our understanding of the substantive meanings of property rights collectively and individually?

(2) How has China’s landed property rights been regulated and adjudicated? To what extent and in what way has peasant resistance contributed to the negotiation and re-definition of landed property rights?

(3) To strive for their own land rights and interests, rural women have had to confront the “violence of the majority” that has ironically been made possible by the villagers’ autonomous governance. At the same time, they have to open the black box of collective property. Hence, how has women’s resistance, which takes place within the broader framework of landed property rights and peasant resistance in China, contributed to the country’s social and political changes?

1.3.3.2 Specific questions
This thesis will propose the idea of “composite property rights” (in chapters 3 and 4) to characterize the meanings of property rights as negotiated and practiced by various stakeholders. It will also propose the idea of “boundary-treading resistance” (in chapters 5 and 6) to examine peasants’ resistance. So, my specific questions are as follows:

(1) What are the core action logics adopted by peasants as they negotiate and exercise their composite property rights?

(2) Followed by the core action logic, what are the characteristics of the practical logic of composite property rights?

(3) Within the framework of “composite property rights” and “boundary-treading resistance,” how did women gain and lose their land rights and interests?

1.4 THE STRUCTURE OF THE DISSERTATION

This dissertation has eight chapters. Chapter 1 briefly introduces the background, the research thinking, the research questions, and the significance of this study.

Chapter 2 focuses on the introduction of my fieldwork, C County in eastern Sichuan China, providing basic information on the county and my methodology.

Chapter 3 reviews the literature on property rights. After reorganizing and criticizing the existing two kinds of property rights ideas, the bundle of rights and the social
network of relationships, I provide a theoretical framework, composite property rights, to explore the nature of property rights.

Chapter 4, in applying specific cases, illustrates the meaning and operating mechanism of composite property rights in detail.

Chapter 5 examines the literature of rural resistance and provides a concept, boundary-treading resistance, to describe peasants’ resistance in C County.

Chapter 6 uses specific cases to illustrate the meaning of the boundary-treading resistance concept.

Chapter 7 applies the concept of “boundary-treading resistance” to discuss women’s land rights and their resistance through a membership perspective.

Chapter 8 summarizes and discusses the research findings. It returns to the theoretical framework of this study and discusses its theoretical and practical implication.
CHAPTER 2 INTRODUCTION TO FIELDWORK AND METHODOLOGY

2.1 INTRODUCTION

This chapter provides a simple description of the location of the field study, C County, and introduces the research methodology. We introduce its location, the transportation infrastructure, the urban landscape, the land use, the land finance arrangements, and the three stages of land expropriation. In terms of the methodology, we introduce the meaning of two concepts, land expropriation and rural resistance, in our research, followed by an introduction to our fieldwork.

2.2 INTRODUCTION TO FIELDWORK

2.2.1 C County background

C County falls under the jurisdiction of Guang’an Prefecture, Sichuan Province. It is located in the northeast of the Sichuan Basin, with the county government having been established in 1950.

C County covers a vast area of 1,457 square kilometers, and, in 2014, had 43 towns and one Management Committee (guan wei hui), 828 villages, 6,255 teams, 724.6 thousand mu of arable land, and a population of nearly 1.2 million. It is a typical “huge hilly county, a large agricultural county, a weak industrial county, and a financially poor county” (qiu ling da xian, nong ye da xian, gong ye xiao xian, cai zheng qiong xian.1).

1 From working report of Agricultural Bureau of C County, July 2015.
In 2013, C County’s GDP totaled 15.77188 billion yuan and it had a per capita GDP of 22,718 yuan; the proportion of primary industry is 22.9%, secondary, 46%, and tertiary, 31.1%. Peasant per capita income in 2013 was 8,698 yuan.

C County is very close to Deng Xiaoping’s hometown of Guang’an, and it is a natural part of the “Sichuan-Chongqing cooperative area” (chuan yu he zuo qu) as it is adjacent to Chongqing. It has convenient transportation routes, belonging to the 15-minute economy circle of Guang’an city, the one-hour economy circle of Chongqing, and the two-hour economy circle of Chengdu, with a highway network extending in all directions. Moreover, the Chongqing-Lanzhou high-speed railway stops in C County.

2.2.2 Urban construction, land use, land finance, and land expropriation

2.2.2.1 Urban construction

In terms of its urban construction, C County is going to implement “eastern expansion, western cleansing, northern greening, and southern industrialization” (dong kuo xi qian, bei lv nan gong) development strategies. These strategies will greatly influence its urbanization. Specifically, C County plans to expand its eastern region to construct a one-million population new city similar to Guang’an city, clean up the old western district, making it a beautiful new district, green the northern region by building a place of leisure, and industrialize the southern region by building an industrial park. In fulfilling these strategies, C County is making a big effort to develop land, invest in urban infrastructure facilities, and attract business. In tandem with the large-scale development projects, however, land expropriation disputes occur.
2.2.2.2 Land use

In accordance with its urban construction, C County has an overall plan for land utilization (2006–2020), from which we can discern its land use pattern, as set out below.

First, in terms of urban construction, a large amount of cultivated land, other farmland, and natural reserved areas will be used; meanwhile, to balance the farmland, garden plot and forest land areas will be increased through land consolidation, reclamation, etc. (see Table 2.1).

Table 2.1: Planned land use structural adjustment for C County (unit: hectare)

<table>
<thead>
<tr>
<th>Land types</th>
<th>2006 area</th>
<th>2006 %</th>
<th>2010 (recent) area</th>
<th>2010 %</th>
<th>2020 (planned) area</th>
<th>2020 %</th>
<th>Change in area %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total land area</td>
<td>147769.18</td>
<td>100</td>
<td>147769.18</td>
<td>100</td>
<td>147769.18</td>
<td>100</td>
<td>0.00</td>
</tr>
<tr>
<td>Farm land</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cultivated land</td>
<td>72820.22</td>
<td>49.28</td>
<td>73384.23</td>
<td>49.66</td>
<td>72647.59</td>
<td>49.16</td>
<td>-172.63</td>
</tr>
<tr>
<td>Garden plots</td>
<td>3622.47</td>
<td>2.45</td>
<td>4137.05</td>
<td>2.80</td>
<td>4771.94</td>
<td>3.23</td>
<td>1149.47</td>
</tr>
<tr>
<td>Forest land</td>
<td>8460.28</td>
<td>5.73</td>
<td>8773.15</td>
<td>5.94</td>
<td>9242.48</td>
<td>6.25</td>
<td>782.20</td>
</tr>
<tr>
<td>Other farmland</td>
<td>34810.91</td>
<td>23.56</td>
<td>32976.01</td>
<td>22.32</td>
<td>31603.43</td>
<td>21.39</td>
<td>-3207.48</td>
</tr>
<tr>
<td>Farmland in total</td>
<td>119713.88</td>
<td>81.01</td>
<td>119270.44</td>
<td>80.71</td>
<td>118265.44</td>
<td>80.03</td>
<td>-1448.44</td>
</tr>
<tr>
<td>Other land</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Area under water</td>
<td>3285.10</td>
<td>2.22</td>
<td>3285.10</td>
<td>2.22</td>
<td>3285.10</td>
<td>2.22</td>
<td>0.00</td>
</tr>
<tr>
<td>Natural reserved areas</td>
<td>6565.17</td>
<td>4.82</td>
<td>6413.61</td>
<td>4.34</td>
<td>6313.61</td>
<td>4.27</td>
<td>-251.56</td>
</tr>
<tr>
<td>Other land in total</td>
<td>9850.27</td>
<td>6.67</td>
<td>9698.71</td>
<td>6.56</td>
<td>9598.71</td>
<td>6.50</td>
<td>-251.56</td>
</tr>
</tbody>
</table>

Source: Overall plan for land utilization (2006-2020) of C County (People’s Government of C County)
Second, during the planning period, the county plans to increase cultivated land to 2005 hectares through land consolidation (1737.42 hectares), reclamation (3.5 hectares), and land development (264.08 hectares), and the remaining land will mainly be used for construction purposes (1305 hectares), devastated-by-disaster land (75.15 hectares), and other purposes (797.48 hectares) (Overall plan for land utilization (2006-2020)).

2.2.2.3 Land finance

To support urban construction, C County greatly relies on land finance. An interview with an accountant in the Land Resource Bureau revealed that the economic mechanism of land finance in C County has two aspects. First, there is cash collection (xian shou xian zhi). The land is expropriated at a cost of 0.35 million yuan per mu, and its market price is between one and three million yuan. 75% of the land-sale revenues go to the municipal and county governments for investing in infrastructure construction, urban construction, and land compensation. Second, there are special funds (zhuan xiang zi jin) for land, for example, “link the increase and decrease” (zeng jian gua gou) and “new village construction” (xin nong cun jian she) projects.

We collected information from recent years about fiscal revenue and land revenue, as per Table 2. Usually, land-related income comprises two parts: direct land tax and indirect land tax. The former includes urban land use tax, land value increment tax, farmland occupation tax, and deed tax, whereas the latter includes business tax related to land transfer, business tax, and corporate income tax from the building industry and real estate industry, and house property tax (Zhou 2007). For statistical reasons, we
could not separate indirect land tax from business tax and corporate income tax, but the following data helps us understand C County’s land income. From the data, it can be seen that (1) land-related income has been growing particularly fast in recent years and (2) land-related income occupies a large proportion of tax revenue (fiscal budgetary revenue). If we consider the land-related parts that contribute business tax and corporate income tax, the proportion is much higher.

Table 2.2: Fiscal revenue and land revenue in C County (in 10,000s)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax revenue</td>
<td>58,192</td>
<td>47,372</td>
<td>38,047</td>
<td>30,979</td>
<td>18,466</td>
<td>11,573</td>
</tr>
<tr>
<td>House property tax</td>
<td>407</td>
<td>374</td>
<td>318</td>
<td>201</td>
<td>128</td>
<td>127</td>
</tr>
<tr>
<td>Urban land use tax</td>
<td>401</td>
<td>347</td>
<td>293</td>
<td>228</td>
<td>161</td>
<td>130</td>
</tr>
<tr>
<td>Land value increment tax</td>
<td>7,399</td>
<td>3,892</td>
<td>3,543</td>
<td>3,627</td>
<td>2,809</td>
<td>746</td>
</tr>
<tr>
<td>Farmland occupation tax</td>
<td>9,553</td>
<td>3,811</td>
<td>3,695</td>
<td>3,329</td>
<td>3,146</td>
<td>2,625</td>
</tr>
<tr>
<td>Deed tax</td>
<td>7,017</td>
<td>10,064</td>
<td>5,911</td>
<td>4,266</td>
<td>1,667</td>
<td>875</td>
</tr>
<tr>
<td>Land-related income</td>
<td>24,777</td>
<td>18,488</td>
<td>13,760</td>
<td>11,651</td>
<td>7,911</td>
<td>4,503</td>
</tr>
<tr>
<td>Proportion of land-related income to tax revenue</td>
<td>42.58%</td>
<td>39.03%</td>
<td>36.17%</td>
<td>37.61%</td>
<td>42.84%</td>
<td>38.91%</td>
</tr>
</tbody>
</table>


2.2.2.4 Three stages of land expropriation

According to the interviews, from the mid-1990s, three compensation models were introduced, violent demolition (bao li chai qian) (before 2005), one apartment for each home demolished (chai yi pei yi) (2005-2009), and 35 square meters per eligible villager (ren jun 35 ping mi) (2010-2015). The three compensation schemes differ in their effect on peasants’ property. In the “violent demolition” model, peasants’
residential housing and its attachments are treated as attached objects of land, so they are compensated for at a ridiculously low price, arbitrarily decided by the developer. In terms of the “one apartment for each home demolished” model, peasants’ houses, when expropriated by the government, are compensated for with the same area no matter how good or bad the building is. It is a “one size fits all” solution. Similarly, attachments on the land, trees surrounding the house and furniture inside the house are all ignored. As for the “35 square meter per eligible villager” policy, the government makes a more specific and careful assessment of the property, considering not only the family number but also the architectural structure and various attachments of the residential building.

The main reactions of peasants differ according to the model used. In the violent demolition stage, the government just sells a block of land to the developer and the developer decides on the compensation standard and deals with the peasants’ demands. With the government shirking responsibility, peasants’ land rights and interests are completely ignored. “We are all in tears,” said an interviewee. In the second model, the “equivalent occupancy and compensation” model is adopted and the government compensates the peasants. Treating all kinds of houses with the same standard, this model makes peasants feel they are treated unfairly. As a result, a lot of illegal construction occurs. As for the 35 square meters per person policy, although it is fairer, many peasants are also provoked into resistance. This research mainly focuses on the land expropriation disputes arising from the latter two models.

2.3 METHODOLOGIES
2.3.1 Definitions of land expropriation and rural resistance

Before detailing the research we intend to undertake, it is necessary to clarify two definitions. Firstly, land expropriation legally refers to the process whereby farmland is coercively expropriated by the government for the public interest after compensation is paid. In practice, the government uses different ways to expropriate rural land, not only for the public interest but also for making a profit by taking advantage of loopholes in the law. In our research, C County’s land expropriations were (1) for the public interest and business purposes, (2) contained collective land and individual houses, and (3) included the entirety of the land a team had expropriated (tong zheng) and just part of a team’s land expropriated (bu fen zheng di). Different situations make the disputes extremely complicated. Secondly, a definition of rural resistance is provided. In this research, it has three meanings: (1) peasants’ resistance is not against the land expropriation—they are willing to see the land expropriated—but against the low compensation provided, (2) their resistance includes collective resistance and household-unit struggle, and (3) they are mainly protesting against the unfairness and injustice of government policy and policy implementation besides the low compensation offered.

2.3.2 Introduction to the fieldwork

2.3.2.1 Why C County was chosen

There have been two perspectives that land-lost peasants make responses to protect their rights and interests. The first holds that peasants’ rights-safeguarding activities
are based on development of their rights’ consciousness and thus tend to be politicized (Zhou 1996). For example, in a Shanghai case, the rights-conscious residents use law to voice their grievances and insert their interests and assert their rights in the capitalist development process. (Shih 2010) In a Hunan case, reasons for the resistance of land-lost farmers include an absolute feeling of deprivation when they realize that the compensation they have gained is far below what was regulated by higher authorities; and a relative feeling of deprivation when, after comparison, they learn that the benefits gained by farmers of different villages and even within the same village have great discrepancies; the forms of their resistance include “appeals” and “sit-ins”, with their resistance typically based on documents issued from higher authorities. (Lian 2014) The second perspective holds that present farmers’ resistance is not concerned with political rights and tends to ensure that local rule-enforcement authorities comply with existing central policies and state laws. For instance, in a Henan case (Wang Shuai incident) and an Inner Mongolia case (Wu Baoquan incident), both resisters take advantage of online protest, through: (1) communication of grievances with framing tactics; (2) media-framing strategies; (3) mobilizing sympathy for Chinese peasants; and (4) importance of news media for communication and facilitating online protest. (Pu & Scanlan 2012)

As a result, two kinds of resistance are preferred, collective resistance and serious trouble-making individual resistance, to develop specific concept. In the meanwhile, un-furious individual resistance receives relatively little attention by scholars. Under this circumstance, C County peasants’ responses are unique and different from the above mentioned cases.
First, being poor and going out as migrant worker all the year around, peasants in suburb area are willing to have their land expropriated as long as the compensation is reasonable. They resist against low compensation, not land expropriation, in order to get more compensation, not to challenge the authority. So, they tried to interact with the local government tactfully and reasons for their resistance are justice and fairness values based on their local understanding of land rights.

Second, instead of applying their rights on land, they adopt a capital-using strategy to resist because of two reasons: the first is they are not well-versed in the land law—even believing rural land belongs to the state; the second is they regard the land expropriation policy is not fair. So the C County case is not a case that exhibits “rights consciousness”.

Third, rather than asking the government to follow the policy “rule”, they take good advantage of the loopholes of their counterparties, government and developer; so that they can get additional compensation because of their counterparty’s concession. Within these processes, they develop boundary-treading behaviors.

Fourth, because of their upward comparison, peasants prefer to adopt individual or family-unit resistance; as a result, the C County case is an individual resistance majority case. Meanwhile their resistance strategies, judging from an outside like me, are also very controversial; so, their resistance is “embarrassed to speak out”.

Fifth, the “rule consciousness” concept limits protesters’ behavior in the framework of state-society relations and thinks popular contention driven by rules consciousness
can contribute state authorities. However, in my research peasants’ boundary-treading behavior has no meaning of “rule consciousness”; by contrast, they take advantage of their counterparty’s ill-executed policy implementation to get additional compensation. Meanwhile, their behaviors also challenge the land expropriation compensation policy. This means that peasants’ resistance in C County goes beyond citizenship framework.

All these factors of C County contribute the theoretical significances of this research. First, different from developed areas’ solving land disputes through marketization, clarifying clear boundaries of different land rights, C County case provides a special land expropriation compensation distribution solution which is influenced by peasants’ various capital. Second, instead of constructivist perspective of property rights which mainly cares about local custom and subjective initiative of land owner, C County case contributes another rule of land right distribution, peasants’ capital-using. Third, C County case also enriches existing rural resistance in China, proposing a kind of boundary-treading behavior which illustrates China peasants’ wisdom of resistance beyond “rights consciousness” and “rule consciousness”.

There were two reasons for choosing C County. First, I understand C County well. Since it is my wife’s hometown and every spring festival we visit it, I understand C County. I have many friends and relatives who talk habitually about all kinds of cases of land expropriation and urban construction. Second, my father-in-law’s network is very helpful. He was an official in an agricultural bureau before his retirement and served there for more than 20 years. So, he has lots of friends who are willing to share the truth. This is very important, especially considering my interviews were conducted during the serious anti-corruption period and some top officials were arrested due to land
corruption in 2011; without good relationships, the interviewees would not have been willing to communicate with an outsider about their private issues.

2.3.2.2 Basic information about the fieldwork

First, the fieldwork relates to the process of “eastern expansion, southern industrialization” (dong kuo, nan gong) urban construction. The construction of an industrial park in the southern part of the eastern expressways that will link C County and Guang’an city has just been completed.

Second, the fieldwork mainly focuses on two central towns, Jiu Long and Hua Yuan. After the land expropriation, the new apartments for the relocated people are now nearer to the center of the county, with convenient transportation available, so peasants are generally willing to have their land expropriated. During the fieldwork, we found that some peasants were moved into new houses, and some elderly peasants live in the garages, which have been transformed into simple homes, with a kitchen room and a living room.

Third, because the disputes during the violent demolition stage happened more than 10 years ago, the interviews mainly focused on the latter two stages of land expropriation, characterized as the interaction between peasants and local government. Specifically, our research contains three categories of land expropriation dispute: disputes between peasants and township (town) governments due to individual house demolitions, disputes between peasants and village collectives because of the distribution of the
compensation for collective land requisition and the villager membership definition, and disputes among peasants on account of comparing their compensation amounts.

2.3.2.3 Sampling

During the fieldwork, we adopted three sampling methods, convenience sampling, snowball sampling, and judgment sampling.

With my father-in-law’s social network, I found and interviewed different interviewees. Although his interpersonal relationships are extensive, he was also concerned about saving face, so interviewees were selected because of their convenience. In addition, after the land expropriation, some landless peasants left their hometowns, finding jobs elsewhere or staying with their children in cities, which also led to our convenience sampling method being chosen.

During interviewing, I also asked the interviewees for help in introducing their friends to us. As snowball sampling, this was the main way used to find new interviewees. Because land expropriation is related to many private and sensitive issues, being introduced by acquaintances does not lead the interviewees’ willingness to tell the truth. As one stated: “it [chatting] is not helpful for solving our practical difficulties, and may get us into trouble.”

After finding many interviewees and collecting similar information, I chose judgment sampling to contact the interviewees according to them (1) being of different types, such as peasants, cadres, officials, and experts, (2) being from different areas, as in,
with whole land expropriation teams and part land expropriation teams, and (3) having different ideas of land expropriation, like those who were willing to have their land expropriated and those who did not. By doing so, I was able to (1) get comprehensive information about a case or an issue, (2) distinguish between true and false information, and (3) conduct dialogue among the interviewees through commenting on each of their opinions.

The table below shows how 35 interviewees were interviewed in the first round, with four towns and mainly three different kinds of people involved.

Table 2.3: The interviewees in the first round of interviews in C County

<table>
<thead>
<tr>
<th>Categories of interviewee</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Officials and clerks of county and town governments</td>
<td>9</td>
</tr>
<tr>
<td>Village cadres and team leaders</td>
<td>10</td>
</tr>
<tr>
<td>Representatives of peasants, petition peasants, and landless peasants</td>
<td>13</td>
</tr>
<tr>
<td>Others</td>
<td>3</td>
</tr>
<tr>
<td>Total</td>
<td>35</td>
</tr>
</tbody>
</table>

Note: The interviewees were from four towns and 12 villages, and had experienced the three stages of land expropriation in C County.

Source: Diary of investigation and research, summer 2015

2.3.2.4 Interviewing

We conducted three rounds of interviews over 75 days, using semi-structured interviews and field observations. They are introduced separately as follows.

First, details on the three rounds of interviews are provided: Before my presentation for PhD candidacy, I went to C County for 40 days, with my supervisor accompanying me
for the latter 20 days during the 2015 summer holiday. Before that visit, I had read some literature on property rights and chose the composite property rights concept to work with; meanwhile, I did not know which concept of rural resistance was suitable for my research, but I also expected to find an answer to that. During the first round of interviews, we collected a lot of fundamental information.

During the 2016 spring festival, I returned to C County to do my second round interviews over a 20-day period. This consisted of two parts. I spent three days visiting town officials, once again to get some detailed information. After that, I spent most of my holiday in a township accompanied by my uncle-in-law. Since he had two relatives who were cadres, one a village party secretary in power, the other, a former village head, they shared a lot of information about peasants’ lives and land expropriation. The ex-village head even invited me to call on a land rights-infringed peasant family which had appealed to the Guang’an municipality authorities for help over many years. Besides their help, I also made friends through playing majiang with local peasants. Since I deliberately lost money to them, nearly 2,000 yuan several times, they were all willing to play majiang with me and share information. The second round of interviews helped me to gain some new information about the land rights of women and the young generation.

During the 2016 summer vacation, I went back to Chengdu, Dujiangyan city, and Langzhong city with my supervisor for 15 days. This time we visited several land-related experts and officials in Chengu to collect provincial-level information and visit peasants in different land expropriation-pattern regions. This round of interviews
gave me a provincial review, which was different and inspiring, allowing me to examine land institution reform and peasants’ resistance.

Second, details on the interview methods are provided as follows: With regard to the semi-structured interview format, our interviews, comprising one-to-one interview and group interviews, provided different sets of questions to various interviewees. We asked the peasants to share information in three ways, storytelling, making comparisons, and evaluating. Usually, we first asked them some basic information about their own demolished houses and then about the team’s land requisition, followed by a request for them to share some “blame” (che jin) stories. After that, we let them compare the differences in their lives because of the land expropriation and some “unfair” issues, and evaluated the policies, the cadres, and the officials. We asked the officials to introduce their policy and then their opinion on the policy, the peasants’ reactions, and, most importantly, the unspoken rules of their policy implementation. After that, we asked some questions from the peasants’ viewpoints. We then asked the experts to give their viewpoints on the land institutions and share their opinions of land expropriation and peasants’ resistance.

After going to the teahouse to play majiang, some of my majiang buddies, cadres, and peasants invited us to participate in their team meetings, visit the village party secretary, and call to their new houses. Field observation revealed peasants’ struggles against cadres and their quarrels with each other, and we entered their new houses to examine the quality of the buildings and experience their life after the land expropriation.

2.3.2.5 Official documents and lawsuit files
Because of the peasants’ sensitivity to property and the complexity of the land expropriation disputes, we also collected some official documents. Some of the document provider, cadres, and officials explained the policy in detail. Meanwhile, I downloaded more than 150 lawsuit files from openlaw.cn about C County’s land expropriations, which provided a different perspective to the court on land expropriation disputes. In addition, we also collected documents and files on the official Internet.

Up to that point, we had collected a lot of land expropriation dispute information from peasants, officials, experts, and the court. As a result, we were able to get an overall review of the land expropriation disputes.
CHAPTER 3 PROPERTY RIGHTS: PARADIGM, DEFINITION AND COMPOSITE PROPERTY RIGHTS

3.1 INTRODUCTION

Within recent years in China, academics have paid more attention to the conflict over land expropriation. These academics studies usually mention the following two topics: the first topic concerns the nature of the landed property rights; the second topic concerns the distribution of benefits upon land expropriation. Both topics will be addressed in this thesis, although the present chapter will focus on the first.

As this chapter will suggest, research on landed property rights in China falls into two major perspectives. The first follows a materialist-legalist viewpoint and considers property rights as a bundle of rights, whereas the second adopts a constructivist perspective and considers property rights as a network of social relations. While tending to concur with the constructivist perspective, this author will propose the idea of “composite property rights” to systematize the discussion.

As background for this discussion, this chapter will start with a review of Marxists’ and liberal economists’ arguments on property rights, as they form the basis (acknowledged or unwittingly) of much of the debate on this topic in China. As we shall see, despite their many differences, both the liberal economists and Marxists are susceptible to the materialist-legalist viewpoint and are amenable to the idea of property rights as “a bundle of rights” formulated initially by Hohfeld (1913). On the foundation of this review, the author will examine three ways in which the “bundle of rights” idea have
informed analysis of land expropriation in China, namely, truncation of ownership, gaming of property rights, and ambiguity of property rights. These modes of analysis will then be subjected to a critical evaluation and their inadequacies will be identified.

In turn, the constructivist perspective understands property rights to go beyond the legally stipulated “bundle of rights.” Not only has the “exercise” of property rights depended on the resources possessed by the actors, which can include brute force, social capital, or personal ability, but the exercise of property rights may also be constrained by social norms that contradict the legal regulations.

While concurring with the need to examine social relations, the aforementioned constructivist viewpoints tend to lack theoretical specificities and are unclear on causal relations. Hence, this chapter will conclude by proposing the idea of “composite property rights.” Building on the foundation of Zhang Xiaojun’s (2007) idea of “multiple property rights” and drawing upon Pierre Bourdieu's discussion of capitals, this chapter will examine the transformation of symbolic, social, cultural, and political capital into economic capital, and in turn the transformation of economic capital into property rights. In so doing, I hope to provide a better framework for understanding the mechanisms through which various capitals can be mobilized to “realize” the landed property rights.

More specifically, this chapter proposes that composite property rights include economic property rights, cultural attributes of property rights, social attributes of property rights, and symbolic attributes of property rights. The formation of composite property rights follows a two-step process: first, the economic capital is charged
through the path of transformation from another form of capital; second, the charged economic capital subsequently transforms into an economic property right, which includes different attributes of the special property rights.

3.2 PROPERTY RIGHTS AS “BUNDLE OF RIGHTS”

This part plans to briefly introduce and discuss some conceptual frameworks for property rights with respect to China’s land expropriation within “bundle of rights” idea. This part will provide definitions and present specific concepts, while briefly commenting on this idea.

3.2.1 Definition of “bundle of rights”

It seems that Hohfeld (1913) is the first scholar to have introduced the concept of “property rights as a bundle of rights.” Hohfeld (1913) stated:

The term [property] is used in such a ‘blended’ sense as to convey no definite meaning whatsoever . . . If a homely metaphor be permitted, these eight conceptions,—rights and duties, privileges and no-rights, powers and liabilities, immunities and disabilities,—seem to be what may be called the lowest common denominators of the law. . . . These forms of statement seem to represent a blending of non-legal and legal quantities which, in any problem requiring careful reasoning, should preferably be kept distinct.

Merrill and Henry (2001) explained that although “Hohfeld did not use the metaphor ‘bundle of rights’ to describe property . . . his theory of jural opposites and correlatives, together with his effort to reduce in rem rights to clusters of in personam rights,
provided the intellectual justification for this metaphor” (Merrill and Henry 2001). Cooter and Henry (2000) elaborated that:

From a legal viewpoint, property is a bundle of rights. These rights describe what people may and may not do with the resources they own: the extent to which they may possess, use, develop, improve, transform, consume, deplete, destroy, sell, donate, bequeath, transfer, mortgage, lease, loan, or exclude others from their property.

Walker (1980) announced that “. . . a right of property is the fullest right which may exist in and over any subject, including the rights to possess, use, lend, alienate, use up, consume, and otherwise deal with it.” A widely held belief is that clearly defined property rights are essential in persuading individuals to invest their time, efforts, and resources in commercial ventures and make the most efficient use of resources. As Francis (1999) provides, “Poorly or ‘vaguely’ defined property rights lead to inefficiencies, distorted incentive structures, and other suboptimal economic behavior.”

As seen in the above definitions, the “bundle of rights” concept takes priority over human control over objects and tends to explore defined boundaries within those property rights. Within the various analytic perspectives of the “bundle of rights” concept, several conceptual frameworks are used to discuss the nature of property rights with respect to China’s land expropriation.

3.2.2 Land expropriation and “bundle of rights” analysis: examples

This part will introduce three concepts: truncation of ownership (Demsetz 1967), gaming of property rights (Zhang 2012), and ambiguous property rights (Ho 2005). These concepts are introduced not only because of their extensive applicability to
China’s land expropriation dispute, but also because of their ability to illustrate the meaning and failings of the “bundle of rights” concept.

3.2.2.1 Truncation of ownership

“The truncation of ownership rights is perceived as the deletion of some private rights from an implicit bundle of rights that define ‘full’ private ownership” (Demsetz 1967). The solutions Demsetz offered to solve this problem are decentralization and privatization. However, land privatization as a solution is extremely controversial and politically impractical in current China. To understand the truncation of ownership concept, Zhou Qiren (1995) analyzed more than 30 years’ of land institutions from the establishment of P.R.C to the household-responsibility system, determining that “… it is the state that caused truncation of peasant’s ownership.” Moreover, it was this process that enabled the state to take property from peasants to accumulate agriculture surplus beyond the collections of the agricultural tax system.

3.2.2.2 Gaming of property rights

The gaming of property rights refers to the separation of three rights in China’s land institution, i.e., ownership belongs to the state, contract rights revert back to collective rights, and peasants hold management rights. In terms of land expropriation, the state grabs all the three rights and any added land value will be distributed among the three rights holders. As a consequence, the gaming of property rights emerges.
Firstly, right-hierarchy within land relations of property rights exists in jurisprudence. Due to the authority ranking among the state, the collective, and the household, i.e., the state has first priority, while the collective and household have the second and third priority, respectively. The same right-hierarchy exists among the three land rights, which means the former determines the latter. Yang Shitai (2010) described that “an imbalance of land rights exists among three right holders. The current problem of land rights distribution in China is that the state power is oversized, the collective comes second, and the household is undersized. Meanwhile the rights of the collective and household are seriously restricted.”

Secondly, rights-gaming of land relations of property rights occurs in real life. Within the separation of three rights, the implementation of land expropriation needs cooperation from three right holders (as P pattern); however, practically competing interests exist as described below:

When one party has oversized power, such as when the state grabs the land with very low cost according to legislative power and imprescriptible right (as O pattern), or the village collective violently sells land to seek improper interests through villagers' autonomy and ownership of collective land (as V pattern), or the household sells land by way of legal management right and practical right of control (as U pattern) (Zhang 2012), serious corruption or conflict in land expropriation exists.

When two right holders conspire against the rest, the following outcomes may emerge:
Situation A: the village collective conspires with the state to strengthen its reasonability and to offset the state’s informational disadvantage;
Situation B: the household cooperates with the state to restrain the cadres’ behavior; or
Situation C: the village collective and households plot to intensify the collective’s representation and to protect the peasants.
Essentially, if two cooperative rights exist against the rest, loss of rights and interests of the weak will emerge.

Figure 3.1 Relationship among three right subjects

3.2.2.3 Ambiguous property rights

Generally speaking, clearly defining the boundary of property rights is a prerequisite for the healthy operation and development of a society. However, China’s institutional statement on collective land ownership is obviously ambiguous; as a result, it gives the powerful class an institutional space to infringe on peasants’ land rights and interests (Yang and Jiang 2002; Wen 2008; Chen 2009; Huang 2014).
Ambiguous property rights arise from the conflict of different judicial subjects and the conflict among different rights. With respect to conflict among judicial subjects, subjects of a right have several different organizations as agents; for example, the government and its agents, as the subject of ownership of state land, can all exercise the ownership. This also means there is no clear definition of a particular subject of a certain right, such as the village collective, which has three organizations depending on the circumstance: village cadres, the villagers committee, and the rural collective economic organization (nongcun jiti jingji zuzhi). With respect to conflicts among different rights, there are, for instance, conflicts between land expropriation and the Land Tenure System.

In addition to the above institutional reasons, other factors also arise out of ambiguous property rights, such as an imperfect market environment (Li 1996), administrative constraints (Guo 1999), and “intentional institutional ambiguity” of collective land due to political considerations (Ho 2005).

3.2.3 Discussion

Obviously, the bundle of rights perspective is crucial in analyzing property rights and provides a compelling explanation for China’s land expropriation. However, it also has some disadvantages as described below.

First of all, the bundle of rights perspective noticeably misplaced property rights as a judicial matter instead of an economic matter. Lin and Zhang (2000) explained that this conceptual framework assumes a preexistent bundle of rights and “views property
rights as legally exclusive rights, which contain the right to use, beneficiary right, etc. It is based on a super-historical law, which creates property rights.” Consequently, some scholars use this preexistent and entirely legal framework to analyze China’s land conflict, resulting in a “truncation of ownership” concept. Similarly, according to the assumption that various laws, regulations, subjects of property rights exist, some scholars uncover ambiguous property rights.

Secondly, the bundle of rights concept has a cognitive bias on different components of property rights and their functions. This conceptual framework assumes different components of property rights are equivalent and equal, which is indefensible both in theory and in reality. Although gaming of property rights may be suitable in some circumstances, the three-right separation in land does not mean they are equal in weight.

Thirdly, the methodological individualism of the bundle of rights conceptual framework results in a cognitive bias on different property right subjects. It assumes property right subjects for natural persons act rationally, which is unrealistic. In land conflicts, both the cost-benefit calculation and the economic, social, and cultural factors of specific fields contribute to the final outcome.

Meanwhile, its disadvantages also spark widespread criticism. For example, a bundle of rights conceptual framework mainly centers on the relationship between humans and objects instead of relationship among different people involved in a special social field. This approach simplifies the complexity of land rights (Ma 2009). Its propositions entangle scholars in a futile debate about public and private ownership (Li 2009), and
this kind of debate does not target the nature of land rights. (Zhang 2004). After the Decision of the Central Committee of the Communist Party of China on Promoting the Development of Rural Reform (zhonggong zhongyang guanyu tuijin nongcun gaige fazhan ruogan zhongda wenti de jueding), the state has specified the ownership of land rights, and it is, therefore, meaningless to discuss who is the land owner of rural land (Zang 2012).

3.3 PROPERTY RIGHTS AS A NETWORK OF SOCIAL RELATIONS

This part aims to explore the nature of property rights through social relations, focusing mainly on the relationships among right subjects by analyzing practical property rights cases. After a brief introduction of the meaning of “a network of social relations,” we organize corresponding studies into two camps: property rights relations are 1) relationships between different right subjects and 2) relationships with various social norms. Subsequently, we discuss the concept of property rights as a network of social relations by pointing out that is overemphasizes the initiative of subjects, lacks middle-level theoretical analysis, and breeds confusion between property rights relation and social relation. By providing inspiring concepts, this idea paves a way for future exploration of the nature of property rights.

3.3.1 Meaning of “a network of social relations”

The meaning of this idea can be seen in scholarly statements that emphasize the relationships between subjects of property rights over human control over objects. Recently, Pejovich (2001) proffered that “Property rights are relations among men that
arise from the existence of scarce goods and pertain to their use. Property rights specify the norms of behavior with respect to scarce goods that each individual must observe in the interaction with other individuals or bear the cost of nonobservance.” Previously, Fisher (1916) stated, “Property rights are not physical objects or events, but are abstract social relations. A property right is not a thing.” Similarly, Hoebel (1966) stated that The essential nature of property is to be found in social relations rather than in any inherent attributes of the thing or object that we call property. Property, in other words, is not a thing, but a network of social relations that governs the conduct of people with respect to the use and disposition of things.

Consistent with this idea, Chinese sociologists conduct many studies that emphasize social relationships within the practice of property right, especially with respect to land rights. For example, by describing the relationship among land subjects and the relationship between land subjects and social norms, some sociologists discuss how social forces form and change the realization of property rights (Liu 1998 & 1999; She and Chen 2000 & 2005; Zhang 2003; Zhou 2005; Zang 2012). On this basis, some specific concepts have been presented, such as property rights as “relational contracts” (Liu 1999), “a bundle of relationships” (Zhou 2005), or “a kind of social contract” (She and Chen 2005).

Following this line of thinking, some scholars explain the conflicts among land rights and develop several inspiring concepts. For example, the following explanations for the conflicts within rural land rights have been raised: “uncertainty of land use rules” (Zhang 2003; Cao 2008; Xiong 2009); the conflicts between the local rules on land
rights, such as “the membership right of village,” “survival ethics,” “ancestral property right,” and state laws (Guo 2012; Cheng 2012).

Focusing on social relations instead of clear boundaries of different rights, this concept of “property rights as a network of social relations” makes great progress in exploring the nature of property rights. However, it does not illustrate what kind of relationship is involved in land right conflict. Thus, this concept leaves room for further analysis of its meaning as well as further exploration of the nature of property rights in specific land right events.

3.3.2 How are property rights constructed?

The social constructivism perspective provides two answers the question: “what kinds of relationships are involved in land right conflict?” One answer refers to the relationships among different subjects of land rights; the other is about the relationships among various social norms. We will discuss these answers in detail.

3.3.2.1 Property rights are created by the relationships among different subjects of land rights.

This belief emphasizes the role and effect of different subjects in the formation of land rights. For example, some scholars claim that correlative factors for forming the property rights are personal ability and relation resource. Owners of land rights employ their subjective initiative as they carry out, and possibly innovate, social norms (Tian and Chen 2013).
With respect to this belief, three varying academic opinions exist.

First, authority, as a kind of force empowered by law and regulation, which exists between individuals and organizations or government in different levels, affects the final outcome of property rights. Analyzing the relationships among organizations of different levels can help us to understand the following paradox in the property rights dispute: some organizations or persons demonstrate behaviors that cannot improve property right efficiency as instead they create unfair distribution. The question remains—why can these behaviors not be rectified? The subjects include not only the state but also local government and the elite or leaders in village. For example, at the state level, Zhou Qiren (1995) found that the state that created peasant land ownership through a political movement can also change the ownership. At the local government level, Wu Yi (2004) thinks that village-level organizations are replaced by town government, which helps connect peasants and developers, while Qing Hui (2000) thinks that the power of middle organizations, including communities and local organizations, is so strong that they become the actual master of the land. As for the elites or leaders of village, they play the most important roles in deploying and reforming rural collective property (She and Chen 2000; Cao 2007).

Second, subjects’ power, through wealth or violence, has an impact on the distribution of property rights. This view can partly explain why significant laxity in land law enforcement exists. For example, Umbeck’s (1981) “might makes rights” and Benson’s (1994) “might takes rights” specifically explain the relation between property right institutional arrangements and the balance of power of different subjects. Similar
research conclusions from China’s land rights analysis are less disguised. For example, Zhang Jing (2003) and Yu Biao (2014) both claim that the final solution of the land conflict is decided by the power in the gaming and correlative factors. In addition, Zhang Xiaozhi (2000) argues that collective ownership of rural land is transformed into a kind of power ownership disguised as public ownership and peasants’ land rights are violated by this mighty social form because of the unbalance of disposition between the powerful government’s force and the puny force of the peasants. Therefore, land right relationships and social power are defined mutually (Zhang 2004)—land rights are defined by a bundle of power relationship (Ma 2009).

Third, negotiations of property rights are affected by social networks. This point can be explained by two concepts: 1) Zhou Xueguang’s (2005) “relational property rights,” which finds that the structure of property rights within an enterprise reflects all kinds of steady internal and external relationships and believes that this is the result of adapting to an institutional environment; and 2) and Zang Deshun’s (2012) “relational land right,” which finds that the rural collective land right is implanted into the social network based on geographical relation, kinship, relationship between colleagues, village regulations and agreements, and knowledge of local tradition. This view can help us to understand yet another paradox: with regard to the condition of existing conflicts and ambiguous property rights in land laws, why are the subjects able to clearly distinguish the boundary of property rights in practice? From this perspective, land subjects’ positions, with respect to allocating land rights, depend on the social relation resources they possess (Xiong 2009; Zang 2012). The key issue in rural land is the relationships among individuals affiliated with the land rather than the relationships between the land and humans (Zang 2012).
3.3.2.2 Property rights are created by relationships of social norms.

The second view looks to how social norms restrict the subjects, such that the allocation of land rights is regulated by rural society tradition and principles of modern market economy. This perspective demonstrates that no matter how powerful a subject is, one cannot escape from the control of social norms (Tian and Chen 2013).

As this view suggests, a land right subject’s behavior must be restricted to specific social norms in order to gain from the process of land right allocation. Based on this idea, sociologists discuss two topics: what kinds of social norms were applicable in this instance and what is the relationship between the social norms.

In terms of the first topic, scholars find that current rural land right allocation is affected by both traditional norms of rural society and rules of modern market economy. Within traditional norms, one of the hottest discussions is membership principle (Zhang 2003; Shen and Wang 2005; She and Chen 2005). In addition, favor (renqing), survival right (shengcun quan), ancestral property right (zu ye quan), and the first-come, first-served tenet (xianlai xiande yuanze) are also involved (Shen and Wang 2005; She and Chen 2005; Guo 2012). Moreover, with significant development of the market economy and rapid rural social changes, legal text (falv wenben), mightiness, and market competition play an increasingly important role in land resource allocation (Shen and Wang 2005; Zang 2012).
As for the second topic, even some scholars assert that as a result of rationalization of interpersonal relationship and quick dissolution of traditional social norms, no predominant rule can determine the land right allocation by itself (Xiong 2009). This view suggests that there may not be a dominant force in maintaining rural social order, and that rural society is in a Hobbesian Jungle because of various stakeholders’ profit-seeking behaviors (Tian and Chen 2013).

Besides the widely accepted social norms discussed above, some scholars contribute several different conceptual frameworks to define land right allocation principles, such as the difference between legal and cognitive boundaries of property rights (Liu 1998), opposition from symbolic land rights (a kind of membership right based on collective ownership) to contractual land rights (e.g. contractual operation right of rural land) (Yang 2015; Li and Yan 2011), and contradiction between rural collective sharing mechanisms and property law reforms in rural land (Zhang 2002).

3.3.3 Discussion

The view of social constructivism provides realistic explanations and sheds light on the nature of property rights by discussing the contradictions and conflicts among subjects and social norms. Within its logic, the most inspiring aspects aiding the exploration of the nature of property rights are the following two points: (1) property rights’ structure is an outcome of the social structure in its entirety, which is a paradoxical movement of productivity and relationship of production, and (2) property right relations are a kind of production relationship illustrated through the interaction of land right subjects and the competition of social norms.
However, there are some disadvantages of the social constructivism theory.

First, it overemphasizes a single dimension of property rights relations. When discussing land right subjects’ initiative, it seems that they are so capable of overcoming all kinds of rules and laws; however, when focusing on social norms’ restraint, land right subjects suddenly become extremely powerless. Thus, “. . . when social constructivism of property rights insists on collective ownership or nationalization of land, it falls into a dangerous situation, which attributes all shifts to external factors, leading to a static view of institution analysis” (Yang and Liu 2015). This means that follow-up studies should consider multiple-element analysis and consider the combined effect after the interaction.

Secondly, this theory lacks middle-level theoretical analysis in its conclusion, i.e., its factual statements on the micro-level with theoretical explanations on the macro-level, result in a limited contribution to property rights theory. Take “the uncertainty of land use rules” (Zhang 2003) for example, this concept perfectly explains the conflict of land rights, but its theoretical conclusion focuses on China’s general social structure. Thus, the uncertainty of land use rules can be attributed to one of several factors: first, the fact that the interest politics model takes priority over the legal equilibrium model in China’s social order (Zhang 2003); second, that China remains in an undifferentiated state—where politics and laws are not separate—so the solution of the land rights conflict relies on the minimum divergence rule instead of law to measure reasonable requirements of different subjects (Cao 2008); and third, that it simply proves variously defined rules of land rights exist in rural China (Xiong 2009).
However, there is no theoretical improvement to define general principles or common characteristics of property rights in social practice. Regrettably, governments and researchers pay little attention to how property rights institutions are established.

Thirdly, there is some confusion between property rights relation and social relation. For example, there is a widely cited opinion that states, “In the view of sociology, property right is a kind of social relation affecting property right. The result of property relation depends on social relation” (Zang 2012). This kind of statement illustrates some ambiguous opinions, i.e., do property rights relations include social relation or vice versa? This ambiguity means that there exists an unclear causal relation—the root cause of which relates to ambiguity with respect to the nature of property rights.

Thus, to complete this view, we must know how to reasonably allocate the relationships of subjects and social rules, how to focus on exploring the establishment of the institution of property rights, and how to more accurately reveal the nature of property rights in the conflict.

**3.4 PROPERTY RIGHTS AS A KIND OF COMPOSITE PROPERTY RIGHTS**

Consistent with the “property rights as a network of social relations” concept, this chapter plans to explore the nature of property rights within social constructivism. Considering the above deficiencies, especially the single-dimension view and unclear causal relationship, we argue that the nature of property rights involves a composite-dimension with clear causal relationships. To develop this argument specifically, we begin by considering existing studies related to various dimensions to
illustrate that composite-dimension property rights indeed exist. Then, we build on the foundation of Zhang Xiaojun’s (2007) idea of “multiple property rights” and draw upon Pierre Bourdieu’s discussion of capitals. Through these efforts, this chapter provides “composite property rights” as an explanation of the nature of property rights and makes a brief theoretical argument to support such a claim.

3.4.1 Comprehensive conceptual frameworks of property rights

Regarding relational property rights, this study is different from most, as it understands that in reality property rights are instructed by several comprehensive rules other than a single one. Some studies that apply this more comprehensive view consider the following property right theories: dualism of integrated orders (Zhang 2005), multiple property rights (Zhang 2007), the legal, customary, and political force in the defining process of land right (Cao 2008), three-dimensional cognition of property rights (Huang 2014), and mixed property rights (Yang and Liu 2015). It seems that these opinions likely indicate the nature of property rights. The following is a brief introduction of those opinions.

First, with respect to dualism of integrated orders (eryuan zhenghe zhixu), Zhang Jing (2005) studied the legal dispute of villager’s collective property in which the verdict was separated into two parts: it acknowledged the identity of the property owner following the principle of public ownership; however, in the actual allocation of the benefit, it approved the principle that the investor gets the benefit. Zhang Jing suggested that this solution alleviates social conflict—arising from certain rights written in the law—through redistribution of interest. The dual integrated order is
composed of the claimed right and the allocated benefit; the former symbolically approves the identity and right of the subject through a formal system, while the latter closes the gap between the claimed right and social justice.

Second, with respect to the three-dimensional cognition of property rights (chanquan renzhi de san weidu), Huang Pengjin (2014) insisted that different subjects will choose different defined rules of land right under the circumstances of different cognition of property rights, such as political, economic, and social (cultural) cognition. The political cognition of property rights emphasizes political power, like that arising from the state system, as well as the policy that dominates the defining process of property rights. The economic dimension focuses on the market-oriented principles, which regard land as private property; thus, land rights are accredited by contractual behavior in the market instead of state-authorized legality. The third dimension refers to local knowledge formed in the society. The current violent clashes of land right in rural areas are closely related to the diversity of the three-dimensional cognition of property rights.

Third, with respect to the legal, customary, and political force in the defining process of land rights (diquan jieding zhong de falv xisu yu zhengzhi liliang), Cao Zhenghan (2008) discovered, in a case in the Pearl River Delta, that the law is functionally symbolic, while the actual rule, based on custom, is defined, in accord with the facts, by ownership of property agreed to within the community by means of political power. Three factors affect the result of property rights disputes. The first is local custom; if the ability of competition between two subjects is equal, custom will be a common foundation for agreement. The second is the accomplished facts; the one who can create
the fact has the advantage of competition. The third is political power; the stronger will get more land rights (Cao 2008).

Compared to previously-mentioned studies, which consider how only one factor impacts the definition and allocation of property rights, the above three studies consider the effects of economic, political, and cultural factors simultaneously. However, these factors are limited to extrinsic forces—those that affect property rights externally—and do not consider more intrinsic forces—which would affect property rights internally. Even with that deficiency, these studies pave a better path for exploring the nature of property rights.

Fourth, with respect to mixed land rights (hunhe diquan), Yang Lei and Liu Jianping (2015) determined that this theory, which makes land right decisions and achieves land rights implementation inherently, contains four systematical dimensions. The first is asset right dimension, which obeys the maximization of economic benefits and emphasizes economic attribute. The second is public management dimension, which affects the implementation and change of land property rights, based on the ownership of collective land. The third is social relation dimension, which emphasizes the social process of land property rights in acquaintance societies and indicates how the social relations among various subjects affect the implementation of land rights. The fourth dimension is about custom and concepts. Peasants’ concepts of value and customs in acquaintance societies affect the implementation of land rights. Mixed land right stresses land’s attributes as assets and reveals other attributes of rural land, such as economic, managerial, social, and cultural attributes.
Fifth, with respect to multiple property rights (fuhe chanquan), Zhang Xiaojun (2007) discussed how multiple property rights are composed of economic, social, cultural, political, and symbolic property rights, which form economic, social, cultural, political, and symbolic capital. The symbolic property right is based on social knowledge defined by the agreement and understanding among subjects and depends on social relationships. Cultural property right refers to informal property rights embedded into the structure of cultural norms. Political property right refers to various roles of government in the privatization of informal property. Economic property right implies the right of use and chooses certain economic goods implemented by force.

By comparison, both “mixed land right” and “multiple property right” discuss the nature of property rights from social interaction between multiple participants and social norms, which affects the structure and the function of property rights. Different from the above views, they both recognize economic, political, cultural, social, and symbolic elements as the inner attributes of property rights and acknowledge that the nature of property rights is decided by the interaction of formal and informal rules.

The above complex conceptual frameworks employ holistic logic and comprehensive accounts of the influence of multiple elements on property rights. Even though there are some different classification methods and ways of thinking among them, commonalities with respect to the nature of property rights are evident. First, the economic property right is widely accepted regardless of the economic dimension or benefit principle. Second, the existence of political, cultural, social, or relational elements of property rights has been demonstrated. Third, as different aspects of
property rights, the above elements are dynamic and balanced by the way integration and combination.

Compared to mixed land rights, multiple property rights have more advantages. First, it emphasizes the importance of the symbolic attribute of property rights, while strengthening the explanatory power of the concept. Second, it helps us understand the nature of property rights clearly and simply based on the “capital-property rights” structure of subject. Furthermore, it can help us determine what kind of capital of the subject can attain special property rights and how it can achieve this goal.

Therefore, combining the literature analysis and field work, this chapter cites Zhang Xiaojun’s multiple property rights as tool for proper analysis. In this research, the nature of property rights is determined to be comprised of multiple property rights—including attributes of economic, social, cultural, and symbolic property—as the practice of property rights involve a dynamic combination of the above attributes.

3.4.2 Composite property rights

3.4.2.1 Sketch and comment of multiple property rights

The theoretical structure of multiple property right consults Bourdieu’s capital theory. According to Bourdieu’s theory, capital can be divided into objective capital and symbolic capital. Economic capital is a kind of direct economic resource. Cultural capital is information capital, made up of certain cultural knowledge, abilities, and nature. Political capital is a specific form of political power and resources. Social
capital contains a network and potential resources based on long-term relationships. Symbolic capital is a general cognitive capital, whose existence is a symbol of all kinds of objective capital (Zhang 2007).

In Zhang’s multiple property rights concept, each form of property right is a bundle of rights, such as rights of possession, right to control, right to earnings, and right of use.

In Zhang’s research on property rights, the following opinions are covered. First, capital and property right has a one-to-one relation. Certain kind of property rights correlates with corresponding capital, but there is no mention of the transformation from capital to property right. Second, Zhang attributes the relation between subject and object to economic property right, which includes ownership, right of disposal, right of income, and right of use. Similarly, social, political, cultural, and symbolic property rights also contain the same bundle of rights. Third, multiple property rights, based on the analysis of historic documents on water rights, are a static property right institution. However, Zhang’s research does not tell us, in a specific property rights practice, how all types of property rights forms appear dynamically.

3.4.2.2 Amending of multiple property rights

We try to find answers for the above deficiencies of multiple property rights from Bourdieu’s theory of capital, which is also the theoretical resource for Zhang’s concept.

As economic capital, which is immediately and directly convertible into money and may be institutionalized in the form of property rights; as cultural capital, which is
convertible, on certain conditions, into economic capital and may be institutionalized in the form of educational qualifications; and as social capital, made up of social obligations (“connections”), which is convertible, in certain conditions, into economic capital and may be institutionalized in the form of a title of nobility (Bourdieu 1986).

. . .although the different forms of capital may be mutually convertible under certain circumstances, they are not reducible to each other. Possession of economic capital does not necessarily imply possession of cultural or symbolic capital, and vice versa. . . .It means, in short, ‘investing’ one’s (academic, cultural, symbolic) capital in such a way as to derive maximum benefit or ‘profit’ from participation. Under normal circumstances, no one enters a game to lose (Johnson 1993).

The followings ideas are inspired by Bourdieu’s capital concept.

First, economic capital can be changed into money directly and may be institutionalized in the form of economic property right. The hypothetical language indicates that the shift from economic capital to economic property right is not mandatory. Whether some material objects can be converted into economic property right or not in a given setting is conditional.

Second, under certain conditions, cultural and social capital can be transformed into economic capital—this approach is also not necessary. This point impacts studies of social constructivism as they usually choose to analyze successful stories in which a certain kind of capital can be and will be undoubtedly transformed into economic
property right. As a result, the transformation from special capital into economic capital is simplified.

Third, transformations among capitals requires pre-conditions, such as benefit maximization as “under normal circumstances, no one enters a game to lose” (Johnson 1993). This means that transformation of different capitals depends on the feasibility of the transformation and the willingness of subjects. This process will become increasingly complex, if subjects weigh the differences between long-term benefits and immediate interests, petty profits and great interests. Moreover, the transformation of capitals will also increase in complexity after the concept of capital is extended to various types of capital including economic, cultural, social, and symbolic.

For a better understanding of the practice and nature of property rights, the concept of multiple property rights needs to be amended.

3.4.2.3 The meaning of composite property rights

As an alternative solution, “composite property rights” contains the following meanings.

First, composite property rights means: (1) property rights are composed of economic, cultural, social, and symbolic attributes; and (2) in a particular conflict of property rights, it will use dynamic and combined approaches to contribute to a final outcome. Essentially, the way to realize property rights is a kind of resistance, which will be discussed in another chapter.
Second, the way to achieve transformation from certain capital to specific property right can be viewed from a “certain capital → economic capital → economic property right → specific property right” approach. The transformation from special capital to economic capital is an informal operation, which may involve a struggle between the initiative of subjects and the restriction of rules. Contrastingly, the transformation from economic capital to economic property right is a formal process, which implements the transformation in an established and legal scope.

Third, when the sophisticated methods of capital-to-property right transformations are used by more and more subjects, the property rights policy will be transformed from the policy text to the policy practice.

Note: PR is the abbreviation of “property right”

Figure 3.2 The operating Mechanism of composite property rights

Within this concept, charging ability, which means the operation of economic capital is strengthened by other capitals, is very crucial. The formation of composite property rights follows a two-step process: first, the economic capital is charged through the path
of transformation from another form of capital; second, the charged economic capital subsequently transforms into an economic property right, which includes different attributes of the special property rights. A strong charging ability can better realize the two steps.

3.4.2.4 The operating mechanism of composite property rights

There is a case in land expropriation that expresses how the composite property rights operate. For example, a peasant has a 100 m² house facing the compensation of land acquisition. According to the demolition policy, the price is 500 yuan per square meter, so he can get 50,000 yuan. In this case, the economic capital is his 100 m² house, the 50,000 yuan is his economic property right, which is the simple property right on the top of the following chart.

Note: PR is the abbreviation of “property right”

Figure 3.3 The operating Mechanism of composite property rights in the case

Moreover, the peasant in this case has a personal relationship with the leader of demolition working team, as a result, the area of his house is confirmed as 150 m² (Not
all the peasants’ houses will have a certified property right because it is common to illegally construct new houses. Especially, after the contract, the house is taken down without recalculation). As a result, he can get 75,000 yuan according to the compensation policy of land expropriation. This process is one case of the operation of composite property right: social capital is used to add value to the peasant’s economic capital to get more compensation. From policy standpoint, the 75,000 yuan is the economic compensation for the demolition, which is economic property right. However, the two parties clearly know that the amount should be 50,000 yuan, but the economic property right transformed the peasants’ economic capital. Thus, 25,000 yuan, the outcome of social capital appended on the economic capital, is added to the typical compensation amount because of a social attribute of property right—the social relationship.

Here, what is noteworthy is that this peasant’s social relationship cannot be transformed into money directly and naturally, because all compensation must be paid formally by government according to official document, which does not publically support this unspoken rule. Thus, the peasant’s social relationship must charge his economic capital by enlarging the area of his house in order to transfer into economic property right, and only then, can the additional compensation be added. This increased compensation, due to his relationship with the leader, is regarded by two parties as a social attribute of property right.

In this case, four aspects exist in the course of transforming and changing from social capital to economic capital. (1) Personal relationships exist between participants. (2) The relationship is a strong bond as it is difficult for a weak bond to contribute to
transformation as the process is not public. (3) The participants want to use this strong bond. For some participants, they may have some other considerations, for example, not wanting to beg some leaders, or not wanting to be looked down upon. (4) The participants are able to use this strong bond successfully.

At the bottom of the above chart, is what we want to contribute. Previous studies paid more attention to the process of informal transformation from special capital to economic capital. However, there is little attention focused on the subsequent operation. Based on informal operation rule, we want to make this research go further. As with the example above, when more and more peasants understand and use this unspoken rule, which can be imitated and tacitly approved, the formal regulation is changed. The policy text is changed into policy practice, which is obviously beneficial to peasants, if the changed policy practice is widely confirmed. As a consequence, for the future formulation and implementation of subsequent property rights, policy will be considered using this described situation.

3.5 CHAPTER SUMMARY AND DISCUSSION

3.5.1 The advancement of composite property rights concept

The functional mechanism of composite property rights surpasses “bundle of rights” and relational property rights. The following are the concrete definitions:

First, the composite property rights concept surpasses the idea of “a bundle of rights.” Different from the idea that the law decides property rights, composite property rights
confirms some informal operation, which is prior to the formal regulation of transformation from economic capital to economic property right. It means that the economic or productive relationships precede the judicial relations, so there is no “truncation of ownership” or “ambiguous property rights.” This course of changing economic capital is a kind of paradoxical movement of productivity and relationship of production. As the impetus of changing property rights, this paradoxical movement precedes judicial right, which is institutionalized into the institution of property rights. It clarifies that property rights are economic or productive relationships and avoids the critical defects of the “bundle of rights” concept.

Secondly, the composite property rights concept develops relational property rights. The social constructivism perspective focuses on the transformation of different capital to economic capital. Then, the conclusion of diversity and uncertainty of property rights rule is ascribed to compounded social structure or China’s legal system construction. Composite property rights link the informal process of changing economic capital with the formal course of transformation from economic capital to economic property right. Meanwhile, this process unifies the active struggle of subjects and the restriction of social rules into the construction of property rights. It focuses on the practice of property rights at the middle level.

Third, the composite property rights concept improves Zhang Xiaojun’s “multiple property right” concept. The composite property right does not accept that transforming capital to a corresponding property right is natural, but rather that this process is fraught with uncertainty. This concept demonstrates a dynamic and combined practice of property rights, which is different from Zhang Xiaojun’s approach of statically
abstracting the concept from historical materials. Meanwhile, the route from special
capital to economic capital to economic property rights to a special attribute of property
rights clearly stipulates the concrete approach of forming property rights—thus,
making it different from Zhang Xiaojun’s approach.

3.5.2 Why “political capital” is not included in the CPR concept?

First, political capital is a kind of social capital. Birner & Wittmer (2000) influentially
divide political capital into instrumental political capital (“the resources which actors
can use to influence policy formation processes and realize outcomes in their interest”) and
structural political capital (“variables of the political system” which condition how
actors believe they can accumulate instrumental political capital). Most authors seem to
use political capital in the sense of Birner & Wittmer’s instrumental political capital.
For example, Jean-Paul Lacoste (1999) sees it as a subtype of social capital, and defines
it as “empowerment”. Alexander Weinreb (2001) defines it as “a subtype of social
capital which is intended to measure access to political decision-makers.” When
introducing Bourdieu’s capital theory, Hakim (2010) also regards political capital as “a
special form of social capital”. Social capital is the sum of resources, actual or potential,
that accrue to a person or group from access to a network of relationships or
membership in a group—who you know as distinct from what you know. Political
capital is a special form of social capital, and refers to a person’s political networks,
assets, and resources (Hakim 2010). This chapter also regards political capital as one
kind of social capital, so the peasants’ political capital using strategies are not specially
discussed as an independent type.
Second, this chapter discusses peasants’ political capital-using strategies within social capital. Political capital refers to the capital that can improve or enhance the individual’s or organization’s status, possessions or access to the existing political system. In China, political capital usually means party membership or cadre status. This research will analyze political capital’s influence, however, within the concept of social capital, like in chapter 4, team leader Jiang’s story. In his story, Jiang uses his team leader status to get additional compensation. There, I limited his story in the framework of patron-client relationship; obviously, his cadre status is his political capital.

Third, political capital is not in widespread use for land expropriated peasants. This research tries to develop composite property rights concept based on peasants’ action strategies, so it is vital to develop some universal elements of this concept. As for political capital, only very few peasants have and can take advantage of it.

3.5.3 A brief summary of this chapter

Our aim is to explore the nature of property rights. In this chapter, we adopt two paradigms, “property right as a bundle of rights” and “property right as a network of social relationship.” We suggest “a bundle of rights” idea is affected by the Liberal Economists’ theory of property rights; as a consequence, there are some mistakes on whether property rights are a kind of economic relation or judicial relation. Thus, “a bundle of rights” perspective cannot provide a convincing explanation for the nature of property rights, even though it presents a powerful explanation to China’s property rights research. The view of the social constructivism of property rights inspects the
subjects’ initiative struggle and the restriction of social rules. However, it does not pay more attention to the positive significance of property rights institution and legal construction in the course of operating property rights in practice; consequently, it keeps apart but not afar to explore the nature of property rights.

After reexamining the comprehensive trend of the practical rule of property rights and amending Zhang Xiaojun’s concept, multiple property right, we argue that the nature of property rights is composite property rights, which includes economic, social, cultural, and symbolic attributes of property rights.

After that, there are two issues to be continued in the next chapter: first, what the concrete connotation of composite property rights is; second, what are the routines to realize composite property rights. The concrete connotation of composite property rights will be described by studying materials in field surveys in next chapter. The method of realizing composite property rights will be discussed in yet another chapter (boundary-treading resistance).
CHAPTER 4 COMPOSITE PROPERTY RIGHTS

4.1 INTRODUCTION

Following the literature analysis in chapter three, this chapter aims to describe the concrete meanings of “composite property rights (CPR),” relationships among its various components, and its methods of operation by analyzing specific cases from fieldwork in C County. As for the internal relationships among various elements of CPR, economic capital plays a leading and fundamental role; while other capital can only affect property rights (PR) by acting on them. In terms of the operating mechanism of PR transformation, the input from other capital to PR relies on what I call their “charging ability” to economic capital. With some simplification, the process may be summarized as follows: other capital → economic capital → economic PR → certain attributes of PR. This chapter, therefore, disagrees with the legalistic and materialistic characterization of “bundle of rights,” which considers only the relationships between individuals and material objects and has been adopted in economic analysis and is followed by government policies. Instead, in proposing the idea of “CPR,” this chapter examines the relationships between the individuals and the material objects as they are embedded in a web of cultural meanings and social relationships.

There are four parts in this chapter. The first part includes a brief introduction of the relationships between different types of capital and PR from the theoretical and institutional perspectives. The second part analyzes the operating mechanism of different types of capital, introducing the meanings of specific capital and illustrating the peasants’ capital—using strategies to charge value to their PR. Subsequently, the third
part illustrates the operating mechanism of CPR through a complicated case-by-case comparison with “a bundle of rights” perspective. Finally, the fourth part ends the chapter with a brief conclusion and discussion.

4.2 THE RELATION BETWEEN CAPITAL AND PR

To lay a solid foundation for examining the capital charging process, this part mainly focuses on the theoretical and institutional relationships between capital and PR. As for the theoretical discussion, we briefly outline Bourdieu’s capital theory and organize some ideas. At the institutional level, after analyzing the background and the three stages of C County’s land expropriation policy, we introduce the institutionalization of economic capital in detail.

4.2.1 Bourdieu’s capital theory and the logic of CPR

Inspired by Bourdieu’s capital theory, chapter three asserts that the nature of PR is CPR in theory. This chapter plans to elaborate on the definition and operating mechanism of CPR in practice—beginning with an introduction of Bourdieu’s capital theory.

In his paper “The Forms of Capital,” Bourdieu (1986) defines different types of capital and briefly analyzes their relations as follows.

Capital is accumulated labor (in its materialized form or its ‘incorporated,’ embodied form) which, when appropriated on a private, i.e., exclusive, basis by agents or groups of agents, enables them to appropriate social energy in the form of reified or living labor.
It is a vis insita, a force inscribed in objective or subjective structures, but it is also a lex insita, the principle underlying the immanent regularities of the social world.

Capital can present itself in three fundamental guises: as economic capital, which is immediately and directly convertible into money and may be institutionalized in the form of PR; as cultural capital, which is convertible, on certain conditions, into economic capital and may be institutionalized in the form of educational qualifications; and as social capital, made up of social obligations (‘connections’), which is convertible, in certain conditions, into economic capital and may be institutionalized in the form of a title of nobility.

Symbolic capital, that is to say, capital—in whatever form—insofar as it is represented, i.e., apprehended symbolically, in a relationship of knowledge or, more precisely, of misrecognition and recognition, presupposes the intervention of the habitus, as a socially constituted cognitive capacity.

Economic capital is at the root of all the other types of capital and that these transformed, disguised forms of economic capital, never entirely reducible to that definition, produce their most specific effects only to the extent that they conceal (not least from their possessors) the fact that economic capital is at their root, in other words—but only in the last analysis—at the root of their effects.

The convertibility of the different types of capital is the basis of the strategies aimed at ensuring the reproduction of capital (and the position occupied in social space) by
means of the conversions least costly in terms of conversion work and of the losses inherent in the conversion itself (in a given state of the social power relations).

According to Bourdieu’s analysis on capital, some ideas can be combined as a conceptual framework seen below.

First, economic capital can be transformed into money immediately and directly and may be institutionalized in the form of PR. Furthermore, it is the root, or a decisive power, of all the other capitals. This relation provides an effective transformation from capital to PR, i.e., only economic capital can be transformed into PR, economic PR.

Second, under certain conditions, cultural capital and social capital can be transformed into economic capital. This means that although other capitals cannot be directly transformed into corresponding PR, they may still have a specific attribute of certain PR through prior transformation into economic capital, attaching to the economic capital’s transformation and finally embedding in the newly-converted economic PR. For example, through the approach of “social/cultural capital \( \rightarrow \) (enlarging) economic capital \( \rightarrow \) (enlarged) economic PR,” social/cultural capital can generate social/cultural attributes of PR, which are contained in the enlarged economic PR.

Third, transformation among different capitals can provide an action strategy for the owner of capital to preserve and reproduce their property. In the circumstance of land expropriation, under the condition that only economic capital can be directly institutionalized into PR, the most realistic way for land-expropriated peasants to gain
more compensation is to transform all types of their capital into economic capital by taking various strategic actions.

Specifically, in terms of the relation between capital and PR, this chapter regards transformation from economic capital to economic PR as the only approach in which capital can be directly converted into PR. Based on that, this chapter focuses mainly on how the other capitals, by recharging economic capital, increase the value of transformed PR. More specifically, this chapter concentrates on peasants’ capital structure and its operation in the land expropriation process, in order to demonstrate the nature of PR and the logic of CPR.

4.2.2 Institutional relations between capital and PR in land expropriation

After a brief introduction of the theoretical relation between capital and PR, this paper, as a practical response, will demonstrate the institutional relation between them. By analyzing government documents on land expropriation in C County, mostly from year 2009 and 2013, this part begins with an illustration of the practical background of CPR, followed by the institutionalization of economic capital in detail.

4.2.2.1 The practical background of CPR

As strong policy guidance on land expropriation, in terms of the expropriated collective land and demolished individual property, documents from 2009 and 2013 provide principle provisions of the institutional relation. Here we focus our analysis on two aspects, peasants’ physical property and membership.
First, physical property, such as arable land and construction, can be institutionally transformed into PR. Arable land, owned by the collective and managed by households, is expropriated by the government and exchanged for land compensations. The land compensation includes land compensation fees, resettlement fees, compensation for attachments to or green crops on the land, and social security expenses. Meanwhile, construction, as in the peasants’ residential housing, is compensated and replaced with compensation in kind, i.e., “exchanging an old house with a new one” or “selling the area for more than the specified compensation to the government.” Besides construction, crops as attachments on the land are also recognized by government policy. Here, collective arable land and individual construction are economic capital, which can be formally converted into economic PR in the form of money and a house. All these physical capitals can be institutionally compensated—making this transformation a fundamental approach for transforming capital into PR.

Second, membership within a rural collective economic organization can also be conditionally transformed into PR under certain circumstances. This is because resettlement compensation, which aims to resettle the land-expropriated for the agricultural population, is premised on the fact that one must be a member of a rural collective economic organization. Accordingly, the collective membership provides peasants with an opportunity to gain compensation. Specifically, if a peasant is a (1) collective member and the owner of house, or (2) collective member and the user of land, the membership can earn compensation. Thus, by attaching to the physical property, the membership can also provide compensation including social security, unemployment insurance, health care, and other citizenship rights.
According to government policy, physical property and membership become the main contents of economic PR. In essence, the policy of land expropriation is a series of regulations on transformation from the economic capital of peasants and rural collective to economic PR.

Apart from the above principle provisions, the compensation scheme, or, in other words, the institutional relationships between PR and economic capital, changes over time. Referring to the peasants’ residential housing, interviewees suggested that, from the mid-1990s, three models of compensation were introduced, among them were violent demolition (baoli chaiqian), one apartment for each home demolished (chaiyi peiyi), and 35 square meters per eligible villager (ren jun 35 pingmi). The three compensation schemes differ in their transformation of economic capital to PR. In the “violent demolition” stage, peasants’ residential housing and its attachments are treated as objects attached to the land; thus, the peasants are compensated for these components at a ridiculously low price that is arbitrarily decided by a developer. In terms of the “one apartment for each home demolished” model, peasants’ houses that are expropriated by the government are compensated for the same area no matter the condition of the building. It is a “one size fits all” solution. Similarly, attachments on the land, like trees surrounding the house and furniture inside the house, are all ignored. As for the “35 square meters per eligible villager” policy, the government makes more specific and careful evaluations of the property to be expropriated—considering not only the family population but also the architectural structure and various attachments to the residential housing.
No matter what standard—whether capital theory or government policy—is adopted, economic capital is the root of other capitals and the premise of the formation of economic PR. This point can be seen in the latter two models in which economic and housing compensation from the government must be based on the material object and real membership, which practically regulates the only direct transformation approach from capital to PR. Next, we will discuss this institutional process in detail.

4.2.2.2 The institutionalization of economic capital

Following the theoretical analysis and background introduction, this section plans to illustrate the institutionalization of economic capital. In land expropriation, the principal contradiction is that the government wants to exchange land (material capital) at a minimum cost, whereas the peasants want to maximize their gains. The institutionalization from capital to PR raises a set of solutions for this contradiction.

With respect to the implementation of land expropriation, the central government simply introduces guiding policies that emphasize some fundamental principles, while the provincial government, which can approve or reject local government plans for land expropriation, sets regional standards of land compensation fees, resettlement fees, and compensation for attachments to or green crops on the land. The specific policy is made by the municipal government and implemented by the County government. Due to all the various authorities involved, legal procedures, such as the “two announcements and one registration” (liang gonggao yi dengji) procedure and the “agreement of
compensation and resettlement” (chaiqian anzhi buchang xieyi) procedure, are necessary to guarantee the institutionalization of economic capital.

4.2.2.2.1 Two announcements and one registration

Based on the Regulations of Land Administrative Law (tudi guanli fa shishi tiaoli), which means that within ten working days from the day of receiving the approval document by the provincial government or State Council on land expropriation, the municipal or County government must make two announcements and one registration (TAOR) to the land-expropriated village.

What are the two announcements? The first is the announcement of land expropriation, which includes (1) the approval authority, registered number of approval, schedule of approval, and approved uses of land expropriation; (2) owner, location, land category, and area of the expropriated land; (3) land acquisition compensation standards and the approaches to resettlement of an agricultural population; and (4) the period and place to register for compensation for land acquisition. The second is the announcement of compensation and relocation for land expropriation, which includes (1) location, land category, and area of the expropriated land in a collective economic organization as well as the number of agricultural population to be resettled; (2) standard, amount, object, and payment of land compensation fees, resettlement fees, and compensation for attachments and crops on the requisitioned land; (3) specific approaches to resettlement of an agricultural population; and (4) other concrete measures of compensation and resettlement.
What is one registration? Within the period regulated by the announcements, the owner and user of the expropriated land should go to a land administrative department with their land ownership certificate to register for compensation for the land acquisition.

To transform the ownership of collective land to the State, the following two steps are essential: (1) two announcements and one registration are completed by the government, then discussed and passed by the villagers' congress in the form of a written document, and (2) the land requisition compensation is paid by government. As an important legal procedure, the two announcements and one registration witness the PR transfer and provide specific guidance for solutions to land expropriation disputes. Next, we are going to share two examples of announcements and explain some details about the process.

Annex one provides a sample of an announcement of land expropriation. As it shows, article one introduces the use of expropriated land as land for construction, which means it is for public interest. In addition, article two categorizes various expropriated land and indicates the owner and user of the collective land. Furthermore, article three confirms the policy basis for resettlement and compensation, while article four explains the compensation registration.

Annex two offers an example of an announcement for compensation and relocation. At the beginning, it mentions that the basis for the announcement of land expropriation was approved by the provincial government. Details regarding this announcement are below.
First, “annual value of production 1,450 yuan per mu” in article one is decided collaboratively by annual production standards of land expropriation compensation in Sichuan and cultivated land gradation of land expropriation compensation in cities. Since the land in Guang’an is level 13, its annual production is 1,450 yuan per mu.

Second, in article three, the land compensation fee and resettlement compensation fee are calculated according to the Land and Resources Department’s (Sichuan) Opinions on Some Issues Concerning the Uniform Creation of Compensation for Land Acquisition Criteria (guanyu guifan he tiaozheng zhengdi buchang anzhi biaozhun youguan wenti de yijian) (Table 4.1). As for the standard of land compensation fees, cultivated land and non-arable land are ten times and five times of land compensation fees, respectively. In terms of the resettlement compensation fee, cultivated land and non-arable land are six times and three times of resettlement compensation fee, respectively.

Third, article four refers to compensation for green crops, at a unit price of 870 yuan per mu. As Table 4.1 shows, the standard of compensation for green crops is “the same as the output value of crop actually occupied.” In accordance with the standard of Guang’an, by the Da Chun season standard, it equals the result of 1,450 multiplied by 0.6.

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2 The two standards are from a file of Sichuan provincial department of land resources, Land and Resources Department’s (Sichuan) Notice of Unified Annual Production Value of Expropriated Land (Sichuan sheng guotu ziyuan ting guanyu zuzhi shishi zhengdi tongyi nian chanzhi biaozhun de tongzhi).

3 Da Chun season, a period for growing rice, usually from May to September, its compensation standard equals 60% of the Unified Annual Production Value. Xiao Chun season, a period for growing wheat, rape, usually from October to April, its compensation standard equals 40% of the Unified Annual Production Value.
<table>
<thead>
<tr>
<th>type</th>
<th>item</th>
<th>calculation basis</th>
<th>standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>cultivated</td>
<td>land compensation fees</td>
<td>land’s average output value in the previous-three-years</td>
<td>6-10 times of land in size</td>
</tr>
<tr>
<td>land</td>
<td>resettlement subsidy</td>
<td>land’s average output value in the previous-three-years</td>
<td>4-6 times of people need emplacement</td>
</tr>
<tr>
<td></td>
<td>subsidy of young crops</td>
<td>output value of seasonal crop</td>
<td>1 times the output of crops in fact</td>
</tr>
<tr>
<td></td>
<td>compensation for attachments</td>
<td>working out by the municipal government</td>
<td>estimating value of replacement cost</td>
</tr>
<tr>
<td>other land</td>
<td>compensation of land</td>
<td>average output value in the previous-three-years of the town</td>
<td>5-8 times (standard of formulating in every province)</td>
</tr>
<tr>
<td></td>
<td>resettlement subsidy</td>
<td>average output value in the previous-three-years of the town</td>
<td>4-6 times (standard of formulating in every province)</td>
</tr>
<tr>
<td></td>
<td>subsidy of young crops</td>
<td>output value of seasonal crop</td>
<td>1 times (standard of formulating in every province)</td>
</tr>
<tr>
<td></td>
<td>compensation for attachments</td>
<td>working out by the municipal government</td>
<td>average value of replacing value</td>
</tr>
<tr>
<td>unused land</td>
<td>compensation of land</td>
<td>average output value in the previous-three-years of the town</td>
<td>3-5 times (standard formulated by every province)</td>
</tr>
<tr>
<td></td>
<td>resettlement subsidy</td>
<td>No compensation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>subsidy of young crops</td>
<td>No existence</td>
<td></td>
</tr>
<tr>
<td></td>
<td>compensation for attachments</td>
<td>No existence</td>
<td></td>
</tr>
</tbody>
</table>

After two announcements and one registration, the ownership of the collective land is transferred to the State. The last step of the institutionalization is the division of the land requisition compensation among members of the village’s collective ownership, in consideration of the contracting right of the production team and the management
right of the household. This distribution plan is highly dependent on locally specified conditions.

4.2.2.2 Compensation agreement on house demolition and resettlement

A contract specifies civil rights and obligations between the parties to dismantlement. Article 13 of “House Acquisition from State-owned Land and Compensation Ordinance” (guoyou tudi shang fangwu zhengshou yu buchang tiaoli), in the form of the law, stipulates the process of PR transfer: “as for a house lawfully expropriated, its use right of State-owned land is taken back simultaneously.” As a legal testimony of the PR transfer, signing the agreement is an extremely important step, which has been described by one peasant couple as seen below.

Without a satisfactory agreement, we do not allow anyone to remove our house; because if the house is removed without meeting our requirements, we simply cannot do anything with them. Before removing the house, the demolition group workers would obediently go after you. Once the house is removed, it is your turn to go after them, even if calling them grandpa is of no use at all. (Interviewees, Deng couple, July 2015)

The main contents of the compensation agreement on house demolition and resettlement usually include: (1) the method of resettlement compensation, amount of monetary compensation and its payment term, (2) area, construction standard, and location of settlement building, (3) method and deadline of price difference payment of property right-exchanged houses (chanquan zhihuan fangwu), (4) time period for
removal, method and time period of transition during the removal, (5) standard and payment of removal subsidies, and (6) responsibility for breach of contract and the methods of disputes resolution. Applying Contract Law and General Principles of the Civil Law, the agreement on house demolition and resettlement, once signed by the parties, means that PR in real estate are practically transformed from the peasants to the State.

In short, as for the institutional level relation between capital and PR, state laws and government policy provide legal regulation and administrative guidance for the transformation from capital to PR, guaranteeing the institutionalization. Meanwhile, the villager congress's decision and negotiation between rural households and the government also forms a foundation for its realization. It is these various aspects, such as legal institutions, village rules, and individual interactions, that involve various capitals of multiple stakeholders in the institutionalization. As a result, the transformation from capital to PR can be charged.

4.3 THE DEFINITION AND LOGIC OF CPR

According to theoretical analysis of CPR, the subjects of land right, such as land expropriated peasants, will charge the transformation from economic capital to economic PR, by taking full advantage of all their capitals—economic, cultural, social, and symbolic capital. Afterwards, the charged economic capital converts into more economic PR. This part will introduce the operating mechanism of different capitals in practice with each section briefly introducing the meaning of a certain capital and illustrating the peasants’ charging PR transformation.
4.3.1 Economic capital and economic PR

4.3.1.1 The meaning of economic capital

Economic capital, similar to physical capital, is a basic factor of production, consisting of machinery, buildings, computers, and the like. In land expropriation, as the subject matter of PR transfer, collective land and peasants’ residential housing function as material resource forms of capital and undertake peasants’ production and livelihood. Once they are transferred to the State, peasants will no longer own them. Thus, the interest compensation from the PR transfer becomes the peasants’ capital input used to manage their risks of production and future life. In this sense, the material resources of rural collective and peasant families function as a kind of economic capital.

4.3.1.2 Operating strategy of peasants’ economic capital

This section will concentrate on three issues, what aspect peasants focus on, how they act, and what affect their actions have on the policy.

First of all, peasants care greatly about their individual property. Compensation provided by the government focused on both collective land and family property, but as a leader of a demolition team said:

The ordinary people (lao bai xing) understand it clearly and profoundly, although their ideas are scattered without focus and influenced by the government's thoughts. The
collective land problem is a public issue; however, the house is an individual matter, which is worth trying to one's best to resolve. (Interviewee, Yang, July 2015)

As it suggests, collective land is everybody's business and nobody’s responsibility. Meanwhile, family property is specific to the individual. Thus, the operation strategy of peasants’ economic capital is more about the latter—family property specific to the individual.

Secondly, peasants push the boundaries of government policy to increase their property numbers or amounts. For example, demolition documents explicitly instruct that illegal construction and rush-planted trees are not compensated, but peasants still have knacks to cope with these regulations. The following interview refers to such a situation: before two announcements and one registration, to investigate a district’s general information, the township government’s work inadvertently signals to the local peasants that valuations are being conducted for land expropriation. Accordingly, the peasants rush to make changes to the property to best match policy—putting the government in a passive position.

Leader of demolition team: in fact, town government should not have investigated the real situation of JiuLong district. The diagnostic investigation inspires the ordinary people there. . . . Once peasants make troubles, we are not able to carry out subsequent

4 Article 22 the construction to be compensated in land expropriation must have legal procedures, regular shape (zhenggui chengxing), and value-in-use. All the illegal constructions and abandoned facilities, natural roads around the dwelling, ditch, natural cross-wall, are not compensated at all.

Article 34 since the date of announcement (of land expropriation), the land expropriated rural collective economic organizations and villagers, are not allowed to do all kinds of rush jobs, like rush-planted, rush-built, etc.; or all the rush jobs will not get compensation.
work. So, I have conducted more than 10 meetings; however, the work still could not be promoted. At last, the town government secretary gets some hints from County government that it is ok as long as they can meet each other half way. This work dealing with a major imbalance, only the ordinary people in JiuLong District really benefit from it. (Interviewee, Yang, July 2015)

According to the interview, to conduct follow-up work conveniently and timely, the township government does a diagnostic investigation before two announcements and one registration, which alarms the village and provides local peasants an opportunity to increase their property. The policy regulates that land-expropriated peasants are not allowed to do any rush jobs after two announcements and one registration, but the government’s neglectful action leads to an interesting situation: local peasants are alarmed and then do everything they can to get more compensation BEFORE the announcement, which does not violate policy. Similarly, in another case mentioned in chapter six, by collectively constructing illegal buildings and paying the fine, peasants are compensated using the official fine receipt as “legal proof.”

Thirdly, pushing the boundaries of the policy, peasants’ operation of economic capital is practically accepted by government. This can be seen from the latest policy. For example, the appendix of the 2013 policy actually admits to accepting illegal construction, like color steel room and simple structure (in chapter six). In the meantime, compensation criteria of the buildings on the surface also accepts rush-built buildings and rush-planted plants, such as thick mud and rubble at a compensation price of 30 yuan per square meter, earth dam at six, cesspool at 50, and so on. In addition, compensation criteria of scattered trees on the surface defines all kinds of seedlings,
like planted within three years, ground height less than one meter, and being unproductive, etc. Obviously, all these criteria are made for peasants’ rush jobs. As an interviewee said:

If some houses were built temporarily, can you not refuse to admit its area? Thus, a few months before, or when the message is tipping off, these facilities could be set up. Additionally, any facilities could be set up, for example, a pigsty, a pool, or any holes wherever you can made; and any waterholes, such as wells, tombs would be compensated. Once a house is taken down, another house would be set up again, which would be also compensated. (Interviewees, Deng couple, July 2015)

So, it can be seen that to charge their economic capital and get more compensation, peasants use a variety of methods to increase their property numbers.

4.3.2 Cultural capital and cultural attribute of PR

4.3.2.1 The definition of two concepts

Lots of discussions regarding the definition of cultural capital exist in academia. Since our research considers this concept in practice rather than making a theoretical contribution to it, this chapter just briefly introduces several related concepts, partly accepts their idea, and more importantly, provides a clearly delimitation to facilitate subsequent analysis. The same treatment strategy is suitable to the concept of “cultural attribute of PR.”
Bourdieu identifies individuals as possessing cultural capital if they have acquired competence in society’s high-status culture (Mahar et al. 1990). According to Bourdieu, cultural capital has three forms: an embodied state, i.e., as a long-lasting disposition of the individual’s mind and body; an objectified state, when cultural capital is turned into cultural goods such as “pictures, books, dictionaries, instruments, machines, etc” (Bourdieu 1986); and an institutionalized state, when the embodied cultural capital is recognized in the form of an academic credential. In terms of the relation between cultural capital and economic capital, Bourdieu asserts “as cultural capital, which is convertible on certain conditions, into economic capital and may be institutionalized in the form of educational qualifications.” (Bourdieu 1986)

Throsby (1999) defines cultural capital as “the stock of cultural value embodied in an asset. This stock may in turn give rise to a flow of goods and services over time.” According to Throsby (2003), “cultural capital may exist in two forms, tangible and intangible. Tangible cultural capital occurs in the form of artworks and artifacts such as paintings, sculptures, and heritage buildings, locations and sites. Intangible cultural capital comprises artworks[,] which exist in their pure form as public goods, such as music and literature, and the stock of inherited traditions, values, beliefs and so on which constitute the ‘culture’ of a group, whether the group is defined in national, regional, religious, ethnic or other terms.” As for the relation between cultural and economic value, in terms of tangible cultural capital, “cultural value may give rise to economic value;” meanwhile, the stock of intangible cultural capital “has immense cultural value, but no economic value since they cannot be traded as assets.” “Rather, the flow of services to which these stocks give rise yields both cultural and economic value” (Throsby 1999).
Based on Bourdieu’s concept, Zhang Xiaojun argues that cultural capital is a kind of information capital, in certain forms of cultural knowledge, ability, and nature. Cultural PR is a corresponding form of cultural capital (Table 4.2) (Zhang 2007).

Table 4.2  Cultural property right dimension of multiple PR

<table>
<thead>
<tr>
<th>cultural PR</th>
<th>ownership</th>
<th>right of disposition</th>
<th>right to benefit</th>
<th>right of use</th>
</tr>
</thead>
<tbody>
<tr>
<td>information</td>
<td>distribution of belief;</td>
<td>transfer of patent;</td>
<td>patent and trademark;</td>
<td></td>
</tr>
<tr>
<td>intellectual property</td>
<td>value assessment;</td>
<td>plagiarism;</td>
<td>copyright and other</td>
<td></td>
</tr>
<tr>
<td>and idea;</td>
<td>distribution ethics.</td>
<td>information acquisition;</td>
<td>intellectual property.</td>
<td></td>
</tr>
<tr>
<td>custom and ethics;</td>
<td></td>
<td>value profit;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>norm.</td>
<td></td>
<td>ethics profit.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Obviously, by structuring four kinds of rights within the idea “PR as a bundle of right,” Zhang directly filled the above structure with different function and forms of cultural capital.

In terms of the definition of cultural capital, this chapter partly agrees with these ideas. This chapter only adopts Bourdieu’s idea of relation between cultural capital and economic capital, i.e., cultural capital attaches to economic capital. Instead, cultural capital in this chapter is the same as Throsby’s intangible cultural capital, and includes inherited traditions, values, and beliefs and so on, which constitute the culture of a group. Additionally, to transform into cultural capital with economic value, a particular intangible cultural capital must relate to corresponding service. Although the CPR concept is greatly inspired by Zhang’s concept, this chapter does not agree with his
handling of cultural capital. However, his framework clearly illustrates how a certain
form and function of cultural capital take the effect of PR.

Combining the above theoretical analysis and our fieldwork data to illustrate peasants’
cultural capital and its role in the charging PR transformation, this chapter adopts the
following meaning of cultural capital: cultural capital includes inherited traditions,
values, and beliefs and so on, which constitute the culture of a group, and can be
transformed into economic capital.

Based on this concept, this chapter focuses on this question—how do peasants take
advantage of local customs to change the realization form of economic PR in land
expropriation? Thus, the cultural attribute of PR means that peasants charge their
economic capital with cultural capital in order to gain more economic property interests.
Different from Zhang Xiaojun, this chapter does not claim that cultural PR is directly
corresponding to cultural capital, because the transformation between them is
full of uncertainty, i.e., only under certain circumstance cultural capital can change the
transformation rate of economic capital. As a consequence, the converted economic
capital includes a certain degree of cultural factor, which makes “cultural attribute of
PR” more suitable than “cultural PR.”

4.3.2.2 The operation of peasants’ cultural capital

Using two customs—graves without tombstones and family division—as an example,
this part analyzes peasants’ use of cultural capital from the following aspects: (1)
policy-based transformation from economic capital to economic PR on a certain issue,
(2) the custom’s influence over the transformation, (3) the peasants’ action strategy, and (4) the formation of a cultural attribute of PR.

We first examine the custom “grave without tombstone” (fen bu li bei) and its influence.

Case 1:

. . . The same situation applies to digging graves. Peasants claim to have several graveyards, but who really knows? Once, we face such a situation: a peasant claims a graveyard but we do not excavate a piece of bone, and then, we make a scene with him. Later on, we find that a peasant passes bricks off as the skeleton of his ancestor; obviously, it is not allowed, so we refuse his demand. In fact, [this practice exists] . . . widely . . ., but many working teams do not find that. In another situation, a peasant uses cattle bones, and we jeer at him, “why your ancestor’s bones are much bigger than yours? It must be cattle bones!” (Interviewee, Yang, July 2015)

Case 2:

Not getting the house, you can choose not to move the grave; the government would compromise and gives you the house. There is a person in team 8, his house has been demolished, and he has received the compensation. Later on, when the tombs of his family are going to be moved, he gets a grandson (obviously, the baby cannot get any compensation), and then he makes a request that he needs a house quota for his newly-born grandson. No house, he would not move the tomb. Finally, he gets. [Here, the interviewee describes an instance in which a peasant gave the government an ultimatum: "Give me a house big enough for my whole family, including my
new-born grandson, or I will not move the tombs," and the government gave in to his demand.] (Interviewees, Deng couple, July 2015)

The common topic in the above two cases is the government-based economic compensation available for families that must move their family graves when the government intends to expropriate land. In the 2013 government document, a grave is listed as an attached facility on the ground, and its compensation standard is as follows: ordinary mound graves are 1,000 yuan each; graves built with bricks or stone are 1,400 yuan each; and graves built with granite and other material are 2,000 yuan each. In C County, ordinary mound graves are most common. In practice, moving graves involves a two step process. First, the household and government workers jointly confirm the number of graves—usually the owner provides a number and the worker confirms the number by counting the skeletons. Second, the graves are moved into a designated crematorium. If the government does this, the owner can get 200 yuan per grave; however, if the owner does this, the compensation is 1300 yuan per grave.

The implementation of this policy may be affected by local custom; for example, graves without tombstones. In C County, as its local custom, rural graves do not have tombstones. The custom originates from the belief that “it is not suitable to set up a monument for some graves whose owners have some special Chinese zodiac. For example, if someone is zodiac sheep, the monument is to nail a pile, which ties down the owners such that they cannot be reincarnated in a new body.”(Research guide, Chen, July 2015) Thus, given this custom, a question arises: how can a stranger know the exact number of bodies in a grave? This is a particularly a tough issue for government officials as they may not know how many graves should be moved away in a family.
Besides graves without tombstones, a whole set of grave-specific customs exist in local culture. Peasants can obtain additional benefits from these customs by becoming familiar with them and flexibly using them as cultural capital in certain circumstances. For example, one of these customs is that it is not allowed to play tricks on dead ancestors. Playing a trick on a dead ancestor’s body involves great risk, especially to strangers—such an action may be done, but cannot be spoken. Thus, when family members try passing bricks or cattle bones off as part of a human skeleton, like the situation in case one, it can be easily exposed. However, under most circumstances, like the official says “many working teams do not discover that”—this obviously has something to do with this custom. Another custom is that graves cannot be moved away by force, which can help us understand the peasant’s action in case two. Legally, that peasant, whose grandson is born after the announcement, cannot get resettlement compensation for his grandson; however, by bargaining with the government over the missing grave, he eventually forces the government to concede. For in folk society, without an owners’ permission, nobody dares to move away a grave, even though government clearly understands that the peasant’s demand is excessive. Like the above cases show, by skillfully using local custom, some peasants can break through the policy and increase the number of graves to get more compensation.

Even though the customs regarding graves are shared by all the peasants, only a small number of them operate as shown in the above cases. This also suggests that not all the capital can be transformed into PR, and a certain form of PR is not a natural corresponding output of specific capital.
Here, the transformation mechanism from cultural capital to a cultural attribute of PR includes four steps. First, by owning the grave or, more specifically, the land where the grave is located, peasants own a resource. Thus, under the circumstances of land expropriation, this resource becomes capital. Second, according to government policy, by moving the graveyard, or, more specifically, exchanging private grave land with public cemetery land, peasants can receive compensation. Here, policy provides a transformation of economic capital into economic PR. Third, using local cultural customs regarding graveyards, peasants change their capital by overstating the number of graves to increase the capital’s value. Fourth, within the added-value, the part stemming from the peasants’ use of cultural custom is what we call the cultural attribute of PR. Such a practice obeys the regulation while treading closely to the boundary of that regulation, and, in so doing, helps peasants receive additional compensation through their skillful mastering of local customs.

Secondly, we examine the custom “family division” (fen jia) and its influence

Case 3:
Finally, when signing the demolition contract, the family, four members with only one household, purchases two quotas . . . . At first, they only get one garage, and can buy one quota (yi ge zhi biao), totaling 175 m² houses. One of us suggests that, he has two sons; . . . dividing family into one house of 105 m², and another of 70m². If the old live in the garage, the two different-sized houses cannot be assigned fairly. There will be a quarrel between two brothers, leaving an unsolvable trouble. If we only buy two houses of 70 m², it means I do not buy the house. Even considering how bad of my (peasant’s) house is, it is bigger than the new one provided by government. Then the
A policy is loosened, but the garage remains at . . . only one. Four persons, with 140 m² as compensation, add two quotas. It means you can get a house for 6 persons. We continue making comments that if the parent passes away, but there is . . . only one garage left; the brothers will start fighting. The town government has to compromise again, allowing the family to buy another . . . garage. (Interviewee, Jiang, July 2015)

The PR transfer in the process of house demolition is clear in government policy. Take case three for example, there is an undivided family of four—a couple with two sons. According to policy, the family can get 140 m² (35 m² per person times four persons) of area and one garage as compensation because it has only one household. In practice, the family can buy a quota, namely 35 m² in area, at the price of 900 yuan per m².

The rural traditional custom of family division, in which the family property is fairly distributed among descendants, provides another compensation plan that can compete with the policy. The above case describes a bargain being struck in a meeting at which cadres and peasant representatives argue strongly for the household’s benefits. During the negotiation, the cadres and peasant representatives take full advantage of the custom of family division, which avoids family conflict by dividing familial property equitably. Firstly, the parties state that only buying one quota can cause a potential problem. Thus, after hearing their advice, the government officials compromise, allowing the family to buy two quotas. As a result, the household can get two 105 m² houses as compensation. Secondly, they continue to insist that after their parents’ death, one garage cannot be equally distributed between two sons. Therefore, the government makes another concession, letting the household buy a second garage. Therefore, because of the role of the family division custom, that household gets two 105 m²
houses and two garages at an awfully cheap price, which goes far beyond policy regulations.

4.3.3 Social capital and relational attribute of PR

4.3.3.1 The meaning of social capital

Bourdieu (1986) defines social capital as “the aggregate of the actual or potential resources[,] which are linked to possession of a durable network of more or less institutionalized relationships of mutual acquaintance and recognition.” James Coleman defines social capital functionally as “a variety of entities with two elements in common: they all consist of some aspect of social structure, and they facilitate certain actions of actors . . . within the structure” (Portes 1998)—that is, social capital is anything that facilitates individual or collective action, generated by networks of relationships, reciprocity, trust, and social norms. In Coleman's conception, social capital is a neutral resource that facilitates any manner of action; whether society is better off as a result of the facilitation depends entirely on the individual uses to which it is applied (Foley and Edwards 1997). Nan Lin's (2001) concept of social capital is based on a more individualistic perspective: “investment in social relations with expected returns in the marketplace.”

Four explanations can be offered as to why embedded resources in social networks enhance the outcomes of actions. For one, the flow of information is facilitated. Second, these social ties may exert influence on the agents who play a critical role in decisions. Third, social ties may be conceived by the organization or its agents as certifications of
the individual’s social credentials, some of which reflect the individual’s accessibility to resources through social networks and relations—his or her social capital. Finally, social relations are expected to reinforce identity and recognition (Lin 2001).

The above definitions of social capital and Lin Nan’s analysis on its mechanism of action can help us understand social capital as the social attribute of the PR mechanism is similar to the cultural attribute of PR. In land expropriation, peasants’ social capital can meaningfully contribute to PR transformation through the following approaches: obtaining (additional) information prior to the transformation, influencing the government agent, and strengthening the identity toward the specific custom to charge their economic capital to receive additional compensation.

4.3.3.2 The operation of peasants’ social capital

In this chapter, we analyze three different social relationships—strong tie, weak tie, and patron-client relationships—and examine their influence.

Usually, strong-tie relationships are characterized by frequent interaction and ties between coworkers, friends, and spouses, while weak-tie relationships are characterized by infrequent interaction and ties between casual acquaintances. Meanwhile, patron-client relationships can be defined as mutual arrangements between a person (patron) that has authority, social status, wealth, or some other personal resource and another (client) who benefits from their support or influence. What the

5 Strong-tie and weak tie relationship
http://the-definition.com/term/strong-tie-and-weak-tie-relationships

6 Clientelism, https://en.wikipedia.org/wiki/Clientelism#cite_ref-8
patrons gain in this type of relationship from the low-income and limited assets of the client are the following resources, which are in great abundance: time, a vote, and insertion into networks of other potential supporters whom they can influence (Roniger 2004). A key to understanding clientelism might be emphasizing not only the mutually beneficial relationships of exchange but also the asymmetries in power or standing. In return for receiving benefits from the patron, the clients should provide political support.⁷

Case 4:
Team leader Jiang: Hello uncle-in-law. The information you told me has been affected. Our rotten trees have been replaced by the fruit seedlings. Then, the working team came to inspect and was shocked to see the innumerable plants. So they count them according to the area, counting as one mu and paying us 6,000 yuan. Without your information in advance, how would we know to do like that? (Interviewee, Jiang, July 2015)

Case 5:
(Moving the tomb) it costs about 1,500 yuan to move one tomb. If you dig it by yourself, it costs 1,300 yuan; if you do not want to move it, you can get 200 yuan. Someone even wants to take the bones apart into two parts. Moving forefathers’ tombs can generate money. But, you must have a good relationship with the government officer so that no one reports you. This is the financial money that belongs to the state.

⁷ Clientelism, https://en.wikipedia.org/wiki/Clientelism#cite_ref-8
(Claiming wasteland as a graveyard) It also can be accepted. For example, a special worker, in the JiuLong town government, is responsible for registering how many tombs every household has. If you have a good relationship with him, you can get receipts and directly receive the tomb-moving money without checking the registration of the tomb. So there are many fakes, and the . . . money has been put into their own pockets.

(Registering other’s children to one’s household) For example, in my production team, if you are team leader, and he is one of your relatives; just lifting a finger, easy to do it. As long as he asks for the state compensation rather than the collective, it is very okay. (Interviewee, Cheng, July 2015)

Case 6:
Team leader Jiang: he (the demolition team worker) lets me say my demands, and I say three houses and two garages. My demands are consented to without much deliberation. At first, I do not know I can ask for more; later, town government shows consideration for me. For example, my houses only have 400 m² totally; the demolition team worker tears up the drawing made by construction bureau, measuring again, and adding nearly 200 m². Since our family only has one hukou, I have to buy some areas at the price of 2,500 yuan per m². Finally, I get more compensation worth more than 100,000 yuan. In my opinion, it is ok as long as I am not fooled and suffer loss. So, it just cost me 200,000 yuan, with my 400 m² houses, to get three houses and four garages. (Interviewee, Jiang, July 2015)

It is easy to distinguish between the three kinds of relationships. Specifically, the relationship between team leader and government official is a patron-client relationship,
while relationships with one’s relative or a very good relationship, as the interviewee says, is a strong tie relationship, while the local relationship is a weak tie. The patron-client relationship plays a positive role in helping implement government policy; meanwhile, it also has a negative impact on the policy implementation. In terms of its positive role, the client’s support can greatly benefit the patron. In cases three and six, without help from cadres and peasants representatives and team leaders who act as the client, it is very difficult for the government officers as the patron to implement the policy. Meanwhile, with the assistance of the team leader, government officers not only collect villagers’ information but also complete their work smoothly. As for its negative aspect, the benefits provided by the officials distort the policy. For example, in case six, under a private situation, working team officers directly alter the house information and offer advantages to the team leader. The team leader, because of the concrete benefits from government officers, not only avoids loss, but also avoids the need to adopt disgraceful behaviors, like fake divorce, to gain more compensation, which is a important reason why he behaves assertorically all the time. The same patron-client relationship can be shown in the cadres–as patron and peasants–as client relationship. In case three, the cadre and peasants representatives, by strongly arguing for a household’s benefits, earn a lot of respect in their village. In this mutually beneficial relationship of exchange, each part takes what it needs and the PR transfer process is, therefore, changed by social capital.

The effect of a strong tie relationship to challenge the policy is shown as follows. First, a strong tie can provide crucial and secret information. As an opening remark, lots of background information on case four is hidden. The team leader is one of my interviewees and his paternal uncle is my research guide, who is also an official for the
County agriculture bureau. The “information” Jiang says includes two aspects: first, is the land expropriation information, which is readily known by agriculture bureau officials; second, is the compensation standard of ground attachment, which is partially set by the agriculture bureau. Following his relative’s advice, Jiang changes his valueless saplings into fruit seedlings and receives more compensation. Second, the strong tie exerts influence on the agent who plays a critical role in decision-making. As case five shows, a relative of cadre can more conveniently re-register the household matters, which can cost several thousand yuan without a strong tie. Similarly, making a false statement with respect to familial graves, which is both illegal and disgraceful, with the help of a strong tie is quite simple and can easily go unnoticed. Finally, a strong tie masks bribes. Because of these strong ties, the parties do not make deals on the spot, so it is extremely difficult to produce evidence of bribing. Even though some have been found out, officers can only be punished for bad performance or lack of experience rather than bribing.

Different from strong tie and patron-client relationship, a weak tie relationship has the effect of obtaining information and protecting oneself. As with a strong tie relationship, information can also spread rapidly through weak tie. As a matter of fact, even having a general relationship with a cadre, like team leader Jiang, can help peasants get information either by directly communicating with the cadre or by watching and imitating others. Additionally, collective resistance based on the information gained from the weak tie can result in a “no punishment if everybody does it (fa bu ze zhong)” policy. Another meaning of self-protection from a weak tie is illustrated by case five, i.e., if a peasant gets more compensation by disgraceful means, which can be easily
observed, if he has a positive weak tie with others, nobody would expose or denounce him.

A combined effect of the above three relationships is illustrated in the following case.

**Case 7:**
After investigation, the defendant Zhu Hepin, then secretary of the Xin Pingqiao community and the leader of team five, who was in charge of distributing land requisition compensation, was determined to have embezzled public funds, amounting to 267,363 yuan in the name of deducting unemployment insurance benefits.
The result of the judgment was that the defendant Zhu Hepin was sentenced to five years in jail for embezzling public funds. (court file from openLaw.cn, April 2014)

**Case 8:**
There is a big event in our production brigade. The brother-in-law of our County chief has been the village secretary for 2 years and 4 months. His wife is the County chief’s sister. He wants to be the village head and has been in power from 2005 or so. He is good at being the village head, but not in the business of being the village secretary. Because the leader of team 5 [died], he concurrently serves as the team leader. The land (requisition) fee is about 152 wan (ten thousand) and 8 thousand; however, he just distributes 73 wan yuan and uses the rest to be a labor contractor by himself. At last, [because he] failed in the business, he cannot pay the community members back the land (requisition) fee and was reported to the County government. Because of his relationship, the JiuLong town government officials feel a bit scared and try to avoid
the matter. It happened in 2013 and this guy is finally sentenced to 5 years in prison, with the additional penalty of having to return all the money . . . (Interviewee, Xu, July 2015)

Case seven and case eight refer the same case. The information in the former was found in a lawsuit, while the information from the latter was taken from an interview. The narrator provides some crucial information, such as the village party secretary’s other identity as the County chief’s brother-in-law, and the unharmonious relationship between the masses and cadres in that village. It is easy to observe that the relationship between the village party secretary and the County chief is a strong tie, and the relationship between he and the villagers is a weak tie. As a cadre, the patron-client relationship between him and the town government’s working team certainly exists.

Obviously, secretary Zhu’s social capital, as the relative of the County chief, helps him in his position as the governor of the village. Additionally, evidence shows that his risk-taking behavior is highly related to weak supervision from his superior leader, which is a side effect of a patron-client relationship. Moreover, his being exposed is due to the negative weak tie.

Comparing secretary Zhu and team leader Jiang, we can more clearly explore the effect of social capital on property right transformation. First, as we analyzed above, the formal approach is the transformation from economic capital to economic PR. Only through charging economic capital previously, other forms of capital can be converted into corresponding economic capital. Second, by taking full advantage of his power, status, and relationship, secretary Zhu directly diverted collective land requisition
compensation for a private purpose. It is a “social capital→economic PR” transformation approach; obviously, it is illegal. Nevertheless, team leader Jiang, using his status of cadre, adopted a “social capital→economic capital→economic PR” approach, to successfully receive more compensation.

4.3.4 Symbolic capital and symbolic attribute of PR

4.3.4.1 The meaning of symbolic capital

There are two key points regarding Bourdieu’s emphasis on symbolic capital (Zhang 2004): first, all kinds of capital can appear as symbolic capital, which is a general capital, and all kinds of objective capital have a symbolic form. “Symbolic capital is the form that one or another of these species takes when it is grasped through categories of perception that recognize its specific logic or, if you prefer, misrecognize the arbitrariness of its possession and accumulation” (Bourdieu et al. 1992:119). Second, symbolic capital can be reproductive. “Symbolic capital is nothing other than economic or cultural capital when it is known and recognized, when it is known through the categories of perception that it imposes, symbolic relations of power tend to reproduce and to reinforce the power relations that constitute the structure of social space” (Bourdieu 1989: 21).

“Symbolic capital is not a specific capital, but a misrecognition form of other capitals, i.e., as a kind of power, symbolic capital is able to obtain (true or potential) performance, or can be regarded as a kind of justification to be recognized (or admitted)” (Liu 2009). Namely, symbolic capital, derived from the invisibility and conversion of
other capitals, conceals the self-interested purposes of actors to achieve the reproduction of a power relationship through symbolic effect. This effect seduces others into deliberately misrecognising social identification, which cannot be produced and replaced by other explicit capitals (Zhou and Li 2013). A symbol is the product of the interaction consisting of interrelated components. Different from a signal, which just denotes something, a symbol not only denotes something, but also represents it by displacing (Gao 2004).

From the above discussion of symbolic capital, it is not difficult to draw the following conclusions. First, by attaching to other capitals, symbolic capital takes effect and realizes capital transformation. Second, the reproduction of symbolic capital is realized through misrecognizing as a way of denoting and representing.

By using the symbolic capital theory, Zhang Xiaojun (2004) produces some significant insights in the study of land rights. “Land right, as a category of identity, is symbolic capital, which is cognized and endued with meanings by people.” For example, land in the land revolution, cognized (misrecognised) as economic capital (land) and political capital (power), is a form of symbolic capital. Having been cognized as “lords’ land” or “poor peasants’ land”, the pure “land” is able to create lots of new categories of class division. Having once been symbolized as symbolic capital, land rights will be continuingly imbued with meanings, which will change its own essence.

In this chapter, the symbolic capital attribute of PR charges the transformation from economic capital to economic PR through the symbolic capital effect. Specifically in C County, because the transformation conditions from peasants’ property to PR are
strictly regulated by government policy, the resources for which peasants are
compensated are often within a resource-poor setting. To meet the stringent standards
of the compensation policy, it is essential to adopt the misrecognition mechanism of
symbolic capital, which is effective in some circumstances.

4.3.4.2 The operation of symbolic capital

To illustrate the operation of symbolic capital in detail, this part begins with a brief
reanalysis of the symbolic capital’s misrecognition in previous cases, and then explains
in depth two widespread strategies in C County to illustrate symbolic capital’s
operating mechanism, fake divorce and damaging feng shui.

Some previous cases of this chapter, referring to peasants’ using all kinds of capital to
receive more compensation, are full of symbolic capital misrecognition.

First, misrecognition of physical capital. For example, breaking off a branch from a tree
and calling it a fruit tree sapling, whose purpose is to meet the compensation standard
of ground attachment, is a typical misrecognition of physical capital. In this
circumstance, a branch from a tree is obviously not a real fruit tree sampling, but it can
be regarded as such because (1) they are physically similar, and (2) their owner,
house-demolished peasant, takes an active part in the negotiation so that government
officers have to compromise. Therefore, the branch from a tree not only refers to a fruit
tree sapling initially, but also practically represents it in the end.
Second, misrecognition of cultural capital. In another case about cultural capital, peasants’ making false statement regarding graveyards and passing bricks or cattle bones off as human remains, operate similarly in the misrecognition mechanism of cultural capital. The similarity between the substitute and the target object as well as the seriousness of funeral rites jointly contribute to the outcome of capital misrecognition.

Third, misrecognition of social capital. In the operation of social capital, once a peasant’s house is cognized as a “friend’s house,” a “relative’s house,” or “cadre’s house,” a misrecognition mechanism based on social capital takes effect.

4.3.4.2.1 Fake divorce

Fake divorce means that a couple gets divorced officially, but effectively lives together as a married couple. Through fake divorce, a couple becomes two households and asks the government for compensation based on the criteria of two households. The misrecognition of symbolic capital is embodied in the word “fake,” which means after the fake divorce, a couple gets two households in form, but they are still a family through their de facto marriage. Here, two households in form replace a family in practice. Becoming widespread in the land expropriation regions, fake divorce is supported by an institutional factor. In C County, this factor comes from article 20 of the 2009 policy, which regulates “the relocated household is compensated by the criteria of 35 square meters per eligible villager; as for those households with less than two persons, their compensation shall be implemented in accordance with a two-person household.” Supported by such a regulation, “many cadres, even if they are village party secretary, take a lead to enter into a fake divorce.”
Team leader Xu: 70 square meters... only... costs... 63,000 yuan. That is why a couple wants to fake divorce. Family splitting, in the way of fake divorce, means getting one more house. And then, selling the 70 m² house at the price of 3,000 yuan (per square meter), (you can get) 21 wan (ten thousand), earning a net profit of 15 wan. So, the government has to pay 15 wan for a fake divorce. (Interviewee, Xu, July 2015)

It is necessary to explain the above interview in detail. In the team leader’s opinion, through fake divorce and household division, both parties of a couple can get a house as compensation separately. Thus, as a household with only one person, the divided two households can separately buy a 70 m² house at the cost of 63,000 yuan. After selling one house at market price, 3,000 yuan per m², they can get 210,000 yuan. Essentially, he claims, the government has to subsidize 150,000 yuan for each fake divorce.

In fact, dividing a household through fake divorce can create more benefits, like one more house, one more garage, and the removal of the double transition fee. Table 4.3 sorts out various situations and additional profits (from the last three situations) because of fake divorce.

Table 4.3 interest combination of compensation for land demolition under family splitting or not

<table>
<thead>
<tr>
<th>hukou</th>
<th>compensation of the house and cost</th>
<th>garage</th>
<th>transitional fee (1 year)</th>
<th>benefit from reselling one house</th>
</tr>
</thead>
<tbody>
<tr>
<td>one</td>
<td>a 70 m² house for free</td>
<td>one</td>
<td>2,000 yuan</td>
<td>——</td>
</tr>
<tr>
<td>one</td>
<td>a 105 m² house for 31,500 yuan</td>
<td>one</td>
<td>2,000 yuan</td>
<td>——</td>
</tr>
<tr>
<td>two</td>
<td>two 70 m² houses for 63,000 yuan</td>
<td>two</td>
<td>4,000 yuan</td>
<td>147,000 yuan</td>
</tr>
<tr>
<td>two</td>
<td>a 70 m² and a 105 m² houses for 150,500</td>
<td>two</td>
<td>4,000 yuan</td>
<td>164,500 or 59,500</td>
</tr>
</tbody>
</table>
Yang: Getting divorced falsely and separating the household, the couple still lives in together and has three meals together, even though you can pickle vegetables in the same pickle jar. They just want to get more benefits from the state. If he only has one household, he just gets 35 m² for about 31 thousand yuan; if they get divorced falsely, each one could get one household which can be sold for 20 or 30 wan yuan. In fact, it is only 900 yuan for per m². Costing (nearly) 36,000 yuan, and selling for more than 30 wan yuan, they really benefit from fake divorce. (Interviewee, Yang, July 2015)

The above calculation is similar the description by team leader Xu. The difference is that Yang specifically describes real life after the fake divorce, i.e., eat and live together as before, just with a divorce certificate. Fake divorce makes government have to accept the fact that “one household becomes two,” and provide corresponding demolition compensation. Interestingly, when questioned whether they will remarry after getting more compensation, many of them do not go through the procedure, but think “the key is staying together, and just leaving divorce certificate there.”

4.3.4.2.2 Damaging the coffin and hurting feng shui

Case 9:
One household negotiating an agreement for moving the tomb with [the] government, nearly agrees on the terms of the contract. However, to catch up with [the] time limit for a project, the developer breaks ground before their signing the contract.
Troublesomely, the excavator slightly destroys the coffin. So the owners of the tomb do not want to sign the contract and quickly organize 20 to 30 persons, mainly friends and relatives, to take sticks and knives to make a conflict. Counting bystanders in, it attracts crowds of people. The old woman is crying next to the grave and the family members get extremely angry. They say, the developer removes their ancestors’ tomb, destroys their Feng shui and the families’ luck. Furthermore, they assert that they must hold a moving tomb ceremony and quote 25 wan yuan. (Oh my god, how [does] the family [come up with] this?) For example, they say the ancestral tomb should be moved to a new burying ground. It is about 5 kilometers away. Because of this long distance, they need 8 labors to carry the coffin. But it is not enough to call 8 persons; at least, it needs 16 people to change shifts. According to local custom, the labor cost of carrying the coffin is 400 yuan, so this one maybe costs about 6,400 yuan in total. Except this one, there is lots of money . . . needed. In one word, remember that if you want to hold an elaborate ceremony, it may really cost 25 wan yuan. The developer is in a passive position under attack and the government does not want to take a hand in this kind of event. (What is the result?) The village leaders end . . . this event by separately negotiating with two parties. The cadres say “you are good at making a fuss.” At last, the developer has to pay . . . 25 thousand, except that, that family also gets 1,300 yuan from the government to move the tomb by themselves. The village leaders get both benefits and favors from both sides. They help the developer to solve such a difficult problem; in the meanwhile, this family had to say thank you to them. Without the cadres’ help, how could they get so much money? Similar incidents occur . . . , and one of them ends up at the cost of 6 wan yuan. (Interviewee, Chen, July 2015)
According to demolition policy, digging and moving a grave by oneself can earn 1,300 yuan as compensation. In the above case, it can clearly be seen that the owners of damaged coffin are quite good at operating their various capitals. For example, by using social capital, they quickly mobilize their social networks and organize a collective resistance against the developer whose work team damaged the coffin. Meanwhile, they take full advantage of local custom to ask for a huge compensation. Commendably in this case, they ingeniously utilize symbolic capital based on local custom, replacing “damaging the coffin” with “damaging feng shui,” and transforming moving the tomb into restoring feng shui and comforting the dead ancestor. When an accident turns into a rite performance, what the developer has to compensate is far more than policy regulation. Finally, the owners get two compensations, one from government and another from the developer. Obviously, it is typical for land owners to comprehensively utilize various capitals, especially the combination of cultural and symbolic capital, to charge the transformation from economic capital to economic PR.

Thus far, this chapter explains the definition of various capitals and their operating mechanism to charge the PR transformation. The explanation demonstrates the definition of CPR, i.e., it is the combination of various specific PR. Besides economic PR, it includes cultural, social, and symbolic attributes of PR.

In this chapter, we do not adopt the results of current studies, which directly claim “cultural PR” or “social PR,” etc, because we want to distinguish economic capital and other forms of capitals. As far as this research is concerned, the only approach formally admitted by both peasants and government that can be directly converted into PR is the
transformation from economic capital to economic PR. Even though, in practice, government policy is seriously distorted, the economic capital’s leading role is not changed. Consequently, other forms of capital can affect PR only by acting on economic capital.

4.4 OPERATING MECHANISM OF CPR

In the above, we separately introduce different ingredients of CPR. From this, it can be seen that different attributes of PR affect PR in a unique operating logic. So, as a combination of different parts, how does CPR work? In this part, a complicated case is introduced to illustrate its operating mechanism. Specifically, we are going to briefly introduce its background and make a comparison between “a bundle of rights” perspective and the CPR perspective.

Case 10:
Three plaintiffs, Tan Xian (mother), Wei Jun (father), and Wei Mou (son), claim that they are the 3rd production team members of Hua Fu village. Tan Xian and Wei Mou register their hukou in the team when they are born, while Wei Jun moves his hukou to an outside village in 2010. Simultaneously, the three make a land contract in the team and they have Certificate of Rural Land Management Right in the name of Tan Suisheng (Tan Xian’s grandpa) as the head of a household.

In 2013, the team’s land is expropriated. In 2014, the team distributes compensation of 9,273 yuan to every team member, but Tan Xian only gets 6,863 yuan, and Wei Jun and Wei Mou get no money. The reasons provided by the team include (1) Tan Xian does not register her hukou in her father’s household, and (2) Wei Jun and Wei Mou
do not have contractual land.

The three plaintiffs appeal the production team, as the defendant, to pay Tan Xian 2,410 yuan and pay Wei Jun and Wei Mou 9,273 yuan separately.

The defendant, the 3rd production team of Hua Fu village, replies and counterclaims that three plaintiffs do not live in the team, there is no contractual land, and they are not relying on rural land to survive. Tan Xian’s parents moved their hukou to Xin Jiang in 1970. She was born in Xin Jiang and moves her hukou back to the team in 1985—registering in her grandpa’s household by illegal ways. In 1986, she moves her hukou to Xin Jiang. Afterwards, taking advantage of Tan Suisheng’s duty as then team leader, without discussing or deciding with the team members, Tan Xian moves her hukou back to the team again. Similarly, Wei Jun and Wei Mou move their hukou to the team without the team’s permission. At the same time, it is illegal for Tan Xian to get compensation 6,863 yuan, so the team counterclaims that (1) Tan Xian must return the land compensation, and (2) the three plaintiffs pay the team transportation cost and working hours lost for a total of 3,700 yuan in compensation. (court file from openLaw.cn, June 2015)

The above case, in the process of distributing collective land expropriation compensation within a production team, refers to a three-person family claiming their collective membership and asking for their land compensation fee.

### 4.4.1 bundle of rights perspective

Following “a bundle of rights” perspective, the first issue we should confirm is the counterparties’ identity and their rights in this dispute. The village, the defendant in the
case, is the owner of collective land’s ownership. The three family members, the plaintiffs, claim they are users of the collective land and members of the village. In this case, there are two issues with PR: (1) a member of the village, as the owner of ownership of collective land, can get personal expense (ren tou fei), 2,410 yuan, and (2) a village member and user of contract land must manage the contracted land and can, therefore, receive a contract land expense (bao di fei); the former is PR of ownership of collective land and the latter is PR of land users. The key issues of the case include three questions. First, are the three plaintiffs’ memberships legal? Second, do they actually manage the contract land as required of village members? Third, does the production team legally act? The following analysis will answer the three questions.

First, according to relative laws, the villagers’ meeting can determine the distributional plan of land requisition compensation. Meanwhile, discussing married women’s land compensation interest is an issue regarded as relating to villagers’ interest and deserving to be determined in a villagers’ meeting. Thus, the three plaintiffs’ settlement and household registration ought to be determined in a villagers’ meeting following legal procedures.

Second, according to the defendant’s statement, after marriage, neither Tan Xian’s huji moving out and returning back were discussed and determined by the team. In addition, neither the moving of her husband’s or son’s huji was accepted by the team. So, based on the procedures of settlement and household registration, all of their methods were

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8 The article 24 of Organic Law of the Villagers Committees of the People's Republic of China, and the article 24 of Supreme People’s Court’s judicial interpretation on the legal issues concerning the trial of disputes involving rural land contract (zuigao renmin fayuan guanyu shenli sheji nongcun tudi chengbao jiufen anjian shiyong falv wenti de jieshi).
illegal. Thus, following the legal regulation of qualification for rural collective economic organization membership (RCEOM) and its applicable standards in other similar cases, the three plaintiffs do not meet all of the standards. Moreover, the defendant’s statement, “three plaintiffs do not live in the team, have no contractual land, do not rely on rural land to survive,” is not denied and overturned by the opposite side.

Therefore, the three plaintiffs failed to meet the RCEOM standard for the resettlement and household registration requirements from both the legal perspective and the practical perspective. Consequently, their request for compensation was denied.

Meanwhile, as to the production team, it does not matter what kind of tactic the plaintiffs use once the membership is accepted—now it does not want to allocate compensation to the plaintiffs while admitting their membership. Similar situations are widespread in the land expropriation region. Let us show two cases to compare with case 10.

Case 11:
In order to return the household back to the 3rd production team of Jiang Yan village, Chen Siming makes a written promise as following: “villager Chen Siming, wife Ye Renlan, daughter Chen Mouhan, and son Chen Hongyu, move their household to the team, not asking for any collective land expropriation compensation and paying a

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9 The article 24 of Supreme People’s Court’s judicial interpretation on the legal issues concerning the trial of disputes involving rural land contract (zuigao renmin fayuan guanyu shenli sheji nongcun tudi chengbao jiufen anjian shiyong falv wenti de jieshi).
10 Fulfilling villager’s obligations, relying on the team’s rural land to survive, living and engaging in production in the village or team for a long time, registering as permanent agricultural population, long-term living in the team without other alternative security measures.
deposit of 20,000 yuan to the team. After assigning all the land compensation, the team returns the deposit. Chen Siming . . . never breaks the promise.” Afterwards, the latter three (Ye Renlan, Chen Mouhan, and Chen Hongyu) move their household to the team without contractual land. (court file from openLaw.cn, July 2015)

Case 12:
After marrying the 1st team member, Xia Jiming of the Ping Qiao village, the 4th team member He Xingcui of Ye Hua village moves her household to her husband’s team and returns the contractual land of her parents’ family. Their son, Xia Kaijing, registers his household in the 1st team of the Ping Qiao village after his birth. In 1998, Xia Kaijing moves his household to the 4th team of Ye Hua village. In 2002, the couple pays a registering fee of 2,000 yuan and makes a registering household contract as such: “discussed and decided by the general meeting of commune members, Xia Jiming moves household to the team. If part of the team’s land is expropriated, the couple does not get compensation; if all the team’s land is expropriated, the couple enjoys the same privileges like other team members.” After that, the couple moves their household to the team. (court file from openLaw.cn, July 2015)

Let us briefly introduce some background information of case 11 and 12. The parties in the above two cases, a son-in-law from an outside village or grandson of the village, move out of their household because of marriage and want to return back because of land expropriation. They register their household in the father-in-law’s or maternal grandfather’s household. To meet the requirements of villagers’ meeting, they make a written promise and pay a security deposit, declaring that they gain demolition
compensation from the state rather than collective land requisition compensation of village. However, in the above two cases, the same as most similar situations, the parties, after their successful registration of their household in the team, revoke what they have said and both of their appeals are refused by the court.

Through case comparison, a few things became clear. The biggest difference between the above two cases and case 10 is that the parties in case 10 do not make a written promise and pay a security deposit, meaning that the production team in case 10 cannot provide evidence. Thus, the answers for the above three question are: 1) the three plaintiffs’ memberships are controversially illegal; 2) they do not actually manage contract land of the village; and 3) the production team’s decision is legal, but it lacks evidence.

From “bundle of rights” perspective, there is something contradictory and unexplained. First, according to the issue-based principle, none of the parties in cases 10, 11, and 12 are suitable for membership, but all of them finally become the members of the team. Second, in the principle of factual basis and equity, none of the parties who do not manage a contractual land should get any compensation relating to management right, but Tan Xian gets it. So the view of “a bundle of right” cannot explain why under the same situation some get compensated while others do not. This is inconsistent with legal principles, such as the issue-based rule and equity principle, yet some of them receive the compensation and the court simply accepts it.

4.4.2 CPR perspective
Let us continue to analyze case 10. According to the defendant’s statement, three plaintiffs, in the process of household registration, take full advantage of their social network, as the relatives of villager Tan Suisheng, who is then team leader. They exercise his authority to bypass villagers’ team meeting. As a result, in all these efforts, three plaintiffs fail to contract, pay a security deposit, and/or pay a favor fee. We are going to analyze their strategy in detail below.

Case 10 (continuing):
Evidence from the trial shows: In 1983, the 3rd production team of Hua Fu village starts carrying out the household-based collective land contract system. Villager Tan Suisheng’s household has 6 family members with 6-member contract land. After several changes, Tan Suisheng’s household and one of his sons, Tan Penglai’s, household have 5 family members with 6-member contract land.

In 1982, Tan Xian is born and registers her household in the 3rd production team under the householder Tan Suisheng. Marrying Tan Xian in 2008, Wei Jun, from an outside village, moves his household to his wife’s family in 2010. In the same year, the couple separates a household from Tan Suisheng’s, registering in the 3rd production team. Wei Mou is born in 2011, and registers his household in the same team.

It is also found that 23.9655 mu land of the 3rd production team is expropriated by the town government in 2012. In 2013, after receiving the land demolition compensation fee, the team holds meetings to discuss the distribution. Because of no contractual land, and getting hukou without the villagers meeting’s permission, three plaintiffs do not receive the whole compensation from the defendant. Instead, they only get a one-member contract land expense from Tan Suisheng’s household.
By showing the Certificate of Rural Land Management Right as proof, Tan Xian claims that she gets contractual land. Judgments are as follows: (1) the defendant pays three plaintiffs personal expenses of 2,410 yuan separately, 7,230 yuan in total; (2) other requirements from both parties are refused by the court. (court file from openLaw.cn, June 2015)

First, the collective’s decision is not beneficial to three plaintiffs. According to the production team meeting, to balance different land rights, the distribution of land requisition compensation takes two factors into consideration: ownership and use right of contract land. The former, in form of personal expense (rentou fei), refers to the ownership of collective land and allocates to each member of the team. The latter, in the form of contract land expense (baodi fei), refers to the right of management and allocates to those member who actually have contract land. Since three plaintiffs in the case finally register the household in the team, they are eligible for the personal expense of 2,410 yuan. However, more than the personal expense, they also ask for the contract land expense of 6,836 yuan, which is inconsistent with the decision.

Secondly, the three plaintiffs apply an unconventional measure. Facing their requests for contract land expense, adjudicative documents take up a significant part of the trial, discussing, in particular, the contractual land of Tan Xian’s grandfather. The final confirmation is that “there still is contract land for six persons in the household of Tan Suisheng and Tan Penglai, and the two households only gain five persons’ personal expense and contract land expense . . . The plaintiff family only gets one-person contract land expense.” All this evidence means that the plaintiff family “borrows” the rest quota of Tan Suisheng and Tan Penglai’s household, which have 5 members with
6-member contract land. As a result, without actual contract land, the plaintiff family gets personal expenses for three persons (because they are all village members) and contract land expenses for one person (from the rest quota of Tan Suisheng and Tan Penglai’s household).

Third, their strategies include various capitals. (1) Social capital, the strong tie with the relatives of the team leader, helps them get membership without any attached conditions. (2) Understanding the loopholes in rural community management, the plaintiffs and their family members apply the rules of village autonomy to obtain virtually impossible land acquisition compensation. (3) They also use the symbolic capital of villager membership. Although they do not qualify, as they do not live in the village, have no contractual land, and do not rely on the rural land to survive, they use a symbolic household that attaches to the relative’s household in name only. Through this, they gain the interest as a qualified member. Furthermore, borrowing the rest quota of their relative, Tan Xian gets contract land expenses, denoting and representing the user of the rest quota of contract land. By taking full advantage of various capitals to receive additional profits and being accepted by the court, the plaintiffs leverage their powers in capital combination.

Fourth, besides land acquisition compensation from the collective, they also prepare for house demolition compensation from the state. The above case illustrates the plaintiffs’ operation of composite capitals in their pursuit of land acquisition compensation, but, relatively speaking, gaining house demolition compensation is more important to them. As the above information shows, the plaintiff family actually prepared well for house
demolition by registering their three-person household in the village and becoming an independent household through family division.

From this complicated case, two characteristics of the operation mechanism of CPR can be seen.

First, combinational capitals are used to strive for more compensation. The married women in cases 11 and 12 just use their social capital; by contrast, Tan Xian, who owns various capitals and is more capable to operate them, gains a remarkably different outcome. This means that in certain PR cases, the kind of capital that will take effect is conditionally dependent on the parties’ capital structure and their ability to apply them.

Second, the process of various capitals’ operation is full of constant revision. As seen in case 10, the production team at first distributes the contract land expense to Tan Xian, but in a later counterclaim asks her to return the fee. This revision in the process of right claiming, due to a changed situation, is usually in accordance with the change of parties’ capital structure. For instance, in cases 11 and 12, not becoming collective members, two women would rather make a written promise and pay a security deposit to get the membership. However, once they became village members, from outsider to insider, they seemed to forget the promise and make new demands. This demonstrates that essentially it is the dynamic nature due to constantly changing appeals that partly characterizes the final outcome of CPR—by means of a substitution process of constant revision.
4.5 CHAPTER SUMMARY AND DISCUSSION

By sorting out related theories of capital and analyzing the transformation of PR in C County, this chapter illustrates the definition and operation mechanism of the CPR concept through several PR dispute cases. The analysis shows that PR is not only the relations between humans and objects, as the government policy illustrates, but also the human relations, which profoundly present a more complete view of social life. Furthermore, these human relations related to PR, in the perspective of CPR, are PR transformations in which different parties take full advantage of their various capitals, such as economic, cultural, social, and symbolic capital. At this point, this research suggests that the nature of PR is CPR, which includes economic PR, cultural, social, and symbolic attributes of PR. Meanwhile, the operation mechanism of CPR shows that although it includes various attributes of PR, in a specific case the kind of attribute that takes effect depends conditionally on the parties’ capital structure and their ability to apply these capitals.

As for the internal relationships among various elements of CPR, economic capital plays a leading and fundamental role; while other capitals can only take effect on PR by acting on it. In terms of the operating mechanism of PR transformation, the input from other capitals to PR relies on what I call their “charging ability” to economic capital. With some simplification, the process may be summarized as follows: other capital $\rightarrow$ economic capital $\rightarrow$ economic PR $\rightarrow$ certain attributes of PR.

This operation mechanism of CPR, by charging and transforming, has two important academic meanings in PR concept research.
First, by practically focusing on parties’ capital structure and its combinational and dynamic nature, instead of theoretically assuming PR’s structure and its stability and static nature, the CPR concept not only illustrates the practical diversity of the relation between human and objects but also skillfully avoids the dilemma of the “truncation of ownership” concept and the uncertainty of “ambiguous PR” notion. The chapter, therefore, disagrees with the legalistic and materialistic characterization of “a bundle of rights;” adopted in economic analysis and followed by government policies, which considers only the relationships between individuals and material objects. Instead, it proposes the idea of “composite property rights;” examining the relationships between the individuals and the material objects as they are embedded in a web of cultural meanings and social relationships.

Second, it distinguishes the relational attributes of PR from power corruption, which establishes a direct link between “social capital→economic PR” like the situation in cases 7 and 8. As a consequence, the CPR concept partially answers this question “what kind of relationship does ‘a network of social relations’ mean?” By not only adopting the judicial relation characteristic of “a bundle of rights,” which supports the legality of PR transformation, but also considering parties’ subjective initiative and their capital structure as “a network of social relations” perspective, the CPR concept explains the complicated PR disputes and conflicts in China’s land expropriation in contrast to the single perspective such as from the institutional view or actors’ behavior angle.
CHAPTER 5 RURAL RESISTANCE: LITERATURE REVIEW AND BOUNDARY-TREADING RESISTANCE

5.1 INTRODUCTION

Through a literature analysis, this chapter aims to answer the question—what is the realization approach of CPR. Chapter four concludes that the nature of PR is CPR, which contains economic property rights as well as social, cultural, and symbolic attributes of PR. Then, how does it operate in practice? Considering that during the process of land requisition, different actors tend to maximize their benefits, conflicts and disputes are inevitable between township governments and villagers, village collectives and villagers, and among different villagers. Thus, this chapter argues that the operation of CPR is a process full of resistance. Based on that, this chapter tries to specifically answer: what kind of resistance is the realization approach of CPR? The answer will be a concept derived from existing resistance research or a newly-created suitable one, if there is not a proper one currently in existence.

There are five parts in this chapter. Part one introduces existing rural resistance studies according to a broad classification of various approaches, including: the structure-process approach, actor-resource approach, and structure-actor approach. The next part illustrates the particularity of land expropriation resistance in order to show that existing resistance concepts cannot suitably explain it. The subsequent part briefly discusses the legal dilemma in rural resistance, and then, analyzes the gap and conflict between the peasants’ perception of land rights and land law of the State to explore the rationale of peasants’ resistance as a resolution. Part four develops a
“boundary-treading resistance” by combining conceptual comparisons with the analysis of my fieldwork. The final part provides a brief conclusion and considers the theoretical approach as a kind of “structure-cognition-action” approach.

In this chapter, boundary-treading resistance, which is based on its rationale on the perceptual difference between peasants’ idea and state laws, means that land-expropriated peasants resist against the low compensation of land expropriation by (1) taking full advantage of various capitals, (2) probing into the loopholes or defects of policies or officers, and (3) challenging traditional moral principles to gain more compensation for land expropriation.

5.2 THEORETICAL APPROACH OF CURRENT RURAL RESEARCH IN CHINA

This part will classify existing rural resistance research into three categories—the structure-process approach, action-resource approach, and structure-action approach. A brief introduction of each one will contain its theoretical assumption, main idea, conceptual framework, and a short review.

5.2.1 Structure-process approach

This approach tries to answer two questions: why and how does rural resistance occur structurally? By focusing on the relation between interrelated organizations and collectives, this approach explains the behavior of collective resistances and explores their structural reasons.
5.2.1.1 Structural analysis

Structural analysis contains both macro and micro levels. The macro level has two elements: political opportunity structure and dynamic mechanism analysis.

Political opportunity structure argues that the success or failure of social movements is primarily affected by political opportunities, and that the actions of activists are dependent on the existence–or lack–of a specific political opportunity (Meyer 2004). According to this structure, if the existing political system is vulnerable to a challenge, it creates an opportunity for others–like the movement members–to issue such a challenge and try to use this time opportunistically to push through social change. This political vulnerability can be the result of (1) increasing political pluralism, (2) decline in repression, (3) division within elites (particularly when it grows to a point where some support organized opposition), and (4) increased political enfranchisement (Cragun and Cragun et al. 2006). Some scholars analyze the structural reasons for rural resistance in the context of China, for example, the change of the state’s political structure and the decline of coercive force of state (Tanner 2001), the change of state’s political legitimacy from communist ideology to performance legitimacy (Zhao 1998; Lee 2002), and the structural change of state-society interaction and development of civil society (Xiao 2002; Shi and Cai 2006; Zhu 2013). Several resistance concepts, such as “rightful resistance” (O’Brien and Li 2006), “struggle by law” (yi fa kang zheng) (Yu 2008), have been developed from this perspective.

Different from macro political opportunity structure analysis, dynamic mechanism analysis mainly examines the source of interest of rural resistance. Thinking along this
route, some studies center on grass-roots government, rural social structure, and institutional factors. As far as the former two factors are concerned, some root causes of rural resistance are frequently cited, like peasants’ interests being deprived by local government (Zhao 1999 & 2003), the imbalance of the rural authority structure (Yu 2000), the political and economic integration based on the interests of the community of local officials and entrepreneurs (Zhang 2007), and unstable rural grass-roots societies involving social conflicts (Zhang 2004). In reference to institutional factors, some are generally regarded as the reasons for resistance of land expropriation, such as the truncation of ownership, unreasonable procedure and compensation, and the deficient mediation system on land conflicts (Kung 2000; Ho 2005; Li 2007; Liu S. 2008; Liu D. 2008; Luo 2009; Zhao 2010; Xie 2012; He 2013; Yang 2014).

In regard to micro level research, the interest structure among special groups is considered to create an impetus for rural resistance. Meanwhile, the resistance can be promoted by the institutional structure. For example, Li Huai (2005) argues that interest relations and social structure among government, developer, and peasants dominates the conflicts in land expropriation, while O’Brien and Li (2006) and Zhao Shukai (2003) interpret various kinds of interest and institutional structures, which result in rural resistance.

In the process, some scholars develop several concepts about peasants’ resistance strategies, such as the “silent struggle” (chen mo kang zheng) (Weng 2005), “expression in the crevice” (jia feng zhong de biao da) (Wang 2005), and “petitioning to appeal for help” (qiu yuan xing shang fang) (Jiao 2010).
On the whole, structural analysis attributes the driving force of rural resistance to the structural conflict arising from social change, and focuses mainly on macroscopic social context and structural causes. However, it is a static analysis with obvious structural determinism. A universal similarity of social structure widely exists, but rural resistances occur selectively. Therefore, it is hard to explain why some situations containing structural conflicts do not experience resistance.

5.2.1.2 Process analysis

In order to respond to the disadvantage of structural analysis and understand the process of generating resistance, the process analysis describes its complicated background and tortuous process, while contributing several inspiring conceptual frameworks as well as research methods. For example, “the process-event analysis” (guo cheng shi jian fen xi) (Sun 2000) tries to analyze social facts with a dynamic process instead of static structure, and regards the event process as an independent explanatory variable. In addition, Ying Xing (2006) demonstrates the process of collective trouble-making in a story of migration for construction a hydropower station in southwest China (Ying and Jin 2000). Correspondingly, some concepts of process analysis are widely spread, like “making a big trouble” (nao da) (Han 2012) and “process of problem-making” (wen ti hua guo cheng) (Ying and Jin 2000).

In summary, the process analysis approach focuses on certain cases to develop a pattern for the process of rural resistance. Thus, the analyzed cases should be typical and can be used to develop a theoretical generalization to the similar cluster phenomenon.
However, China’s regional, political, and social conditions are too complicated to achieve the goal.

5.2.2 Action-resource approach

In this context, the action-resource approach refers to approaches inspired by the rationale choice and resource mobilization theories. This approach has an advantage for answering the questions: under the same structural circumstances, why have some acts of resistance occurred while others not and why have some resistances endured while others are transient? This analysis contains rational choice and resource mobilization theories.

5.2.2.1 Rational choice theory

The basic premise of rational choice theory is that aggregate social behavior results from the behavior of individual actors, each of whom is making their individual decisions. Rational choice theory then assumes that an individual has preferences among the available choice alternatives that allows them to select which option they prefer. The rational agent is assumed to take account of available information, probabilities of events, and potential costs and benefits to determine preferences, and to act consistently in choosing the self-determined best choice of action.\(^\text{11}\) In China, some conceptual frameworks have emerged to describe the diversity of peasants’ rational resistance, such as “tenacious weapons of the weak” (ren wu qi) (She 2008), “interest-seeking petition” (mou li xing shang fang) (Tian 2010), “the coercive


As mentioned above, from the perspective of the rational choice theory, actors can make rational decisions as well as pay attention to their resource structure and action strategy. However, hypotheses of rational man keep certain distances away from real life, because the determination of the individual in practice is also affected by the socioeconomic environment.

5.2.2.2 Resource mobilization

Resource mobilization is the process of using different mechanisms to get resources from a resource provider in order to implement the organization’s work for achieving the pre-determined organizational goals (Seltzer 2014). It emphasizes the ability of the movement's members to (1) acquire resources and to (2) mobilize people towards accomplishing the movement's goals (Kendall 2006). Building on the “resource mobilization” perspective, some scholars extend the type of resource from a material resource form to a resource like “relationships.” First, “relationship mobilization” (guan xi dong yuan) (Zhang and Yang 2014) is a crucial mechanism for mobilizing social emotions, which contains mobilization of kinship, sibship, and geo-relation. As an example of it, Shi Fayong (2005) analyzes the core role of a long-term stable network in the resistance mobilization, while Shi and Cai (2006) point out that resistance movements should take full advantage of horizontal networks among
prospective participants as well as vertical networks between participants and officials. Furthermore, Dong Haijun (2010) develops a concept, “gaming by influence” (yi shi bo yi), which focuses on the subjects’ strong tie to mobilize people as well as weak tie to obtain information from outside. Also, the “structural network of the power-interest” (quan li-li yi de jie gou zhi wang) (Wu 2007) closely relates to relationship mobilization.

Second, emotional mobilization (qing gan dong yuan) (Bai and Xiao 2011) means the individual or community arouses others participants’ fervor and changes their evaluation to an event through affection processing. The participants’ emotions can maintain and promote resistance (Guo 2006); while shared identity and ideas can quickly gather a group to protest (Jing 2003). As an illustration, many concepts provide expressions for emotional factors in the resistance research, such as “sensibility” (qing gan) (Sun 2004; Guo 2006; Zhao 2006), “sorrowful resistance” (bei qing kang zheng) (Wang and Huang 2012), “individualistic resistance” (yi shen kang zheng) (Wang 2010), “the weak identity as a weapon” (zuo wei wu qi de ruo zhe shen fen) (Dong 2008), and “suicide for rights” (wei quan li er zi sha) (Xu 2008).

A third perspective focuses on the leaders of collective action and contends that the ability of leaders is crucial in shaping the occurrence, process, and outcome of collective resistance. For instance, two concepts, “spokesman for peasants” (nong min dai yan ren) (Yu 2000) and “grassroots mobilization” (cao gen dong yuan) (Ying 2007), are described in detail to illustrate the role of the peasant leaders.
In short, the resource mobilization view presents a variety of subjective activities of actors and expounds on the localization of rural resistance in China. Nevertheless, owing to legal restraint, collective resistance based on resource mobilization has to face the “dilemma of legality” (he fa xing kun jing) (Ying 2007), which means rural resistance should be very respectful toward China’s law.

5.2.3 Structure-actor approach

Due to the specific “dilemma of legality” faced by Chinese grassroots organizations, the meaning of which will be examined further in section three, some scholars have integrated the structure-process and actor-resource approaches—proposing new concepts for these analyses. Examples of these new concepts include: “boundary-spanning contention” (O’Brien 2003), “treading on but not crossing the boundary” (cai xian bu yue xian) (Ying and Jin 2000), and “resisting within boundaries and without rules” (you di xian wu gui ze) (Li and Cao 2015). These concepts examine how the resistors balance structural or institutional factors and individuals’ behaviors, and how they can maximize interest as well as limit their action within state laws. Nevertheless, for peasants with limited education and little resistance experience, these resistance tactics are considerably difficult to master.

5.3 THE PARTICULARITY OF LAND EXPROPRIATION RESISTANCE

Which previously mentioned concept can exactly describe rural resistance in land expropriation? To answer this question, it is necessary to examine the background of existing concepts and the particularity of land expropriation resistance. Many existing
concepts of resistance are derived from studies of environmental protests and tax revolts, which are governed by laws and regulations promulgated by the central government. However, unlike matters involving the environment and taxes, because of obvious regional differences, demolition compensation does not have a universally accepted standard. As a result, a certain conceptual framework developed from a specific rural resistance may not be suitable to another situation. Coupled with our fieldwork in C County, we compare the tax revolt with the land expropriation resistance and find that the three differences, described below, are the main particularities that obviously affect the strategy and outcome of resistance.

5.3.1 Resist reactively or proactively?

Re-examining the existing resistance studies reveals that many rural resistances, which are analyzed by domestic and foreign scholars, occur after peasants’ interests have been seriously violated. Thus, it is interpreted that peasants resist reactively. Admittedly, in a large number of cases, land expropriation resistances also arise after an interest is infringed. However, our fieldwork often found that peasants proactively resist against government before and during the land expropriation. As an illustration, a catch-phrase, like “if my requirements are not met, my house won’t be demolished by anybody!” is widely popular. One of the main reasons for this is that peasants take an active and advantageous position in their interaction with government, as they say “you (government) are asking for me as long as my house has not been demolished.” Consequently, this situation obviously affects the choice of resistance strategy, for in the resistors’ opinion, “even if I do something excessively or make a request difficult to accept, you (government) have to endure.” Therefore, it is really necessary to
distinguish resistance patterns of proactive and reactive, because they may separately lead to very different resistance strategies.

This point is related to two facts. First, peasant resistance is not against land expropriation, but against low compensation for land expropriation. Second, peasant resistance before and during land expropriation can help them receive more property right compensation. On the contrary, once their lands are requisitioned and houses are demolished, their resistance is ineffective as there is no way to receive additional compensation. In addition, as for the CPR concept, its operation—charging economic capital with other kinds of capital—should be done before or during the land expropriation.

5.3.2 Are there laws to follow or are there no beneficial laws to consult?

It can be observed that because the central government provides clear and specific regulations on the levy of agricultural tax, peasants have an effective weapon against the malfeasance of the grass-root government. However, in terms of land expropriation, the central government does not make a specific policy and regulation. On the contrary, local governments create the regionally specific land expropriation policies. In addition, China’s land institution is ambiguous and contradictory—we have expounded on and proved this point in the introduction chapter. Consequently, peasants have no legal basis for their resistance and are in a “no beneficial law to consult” situation (Wang and Jin 2016). Specifically, previous studies show that there indeed exists “no right to protect right” (wu fa wei quan) (Huang and Ma 2011) and “ineffective resistance” (wu xiao kang zheng) (Dong and Dai 2010) situations in land conflict. Take my fieldwork
for instance, the policy of land expropriation is provided by the municipal government and revised by the county government according to its own circumstances. Furthermore, both the right of interpretation and executive power belong to the county government. As a result, the peasants’ hopelessness is demonstrated through their popular expression, like “the land, after all, belongs to the state.” Hence, peasants need to develop a different reason to support their resistance rather than “rightful resistance” (O’Brien and Li 2006).

5.3.3 Resist for safeguarding rights or for seeking benefit?

A large number of existing resistance studies developed their conceptual frameworks based on the assumption that peasants resist to safeguard their legal rights, such as right to life and/or civil rights. However, in the era of post agricultural tax, this logic has changed, “from right-protection to benefit-seeking” (cong wei quan dao mou li)(Tian 2010). This change relates to the aforementioned point because it gets more and more difficult to safeguard rights when there is no beneficial law to follow. As for the situation in C County, although sometimes peasants would say “I want to eat” and “I want to survive” to bargain with the government in order to gain more compensation from the government, it is really practical to “just ask for a little more.” As a consequence, there may be different logic and strategies of resistance to accord with the changing goal. As can be seen, the changing goal, different pattern of rural resistance, and a new rationale, all contribute to the particularity of land expropriation resistance.

To conclude, it is the above-mentioned particularities of land expropriation resistance that made previous conceptual frameworks unsuitable for explaining peasants’
behavior; however, there may be something new regarding the strategy of rural resistance.

5.4 DILEMMA OF LEGALITY AND PEASANTS’ SOLUTIONS

Ying Xing’s (2007a) idea, “the main problem of the collective action of Chinese peasants’ interest expression is the dilemma of legality rather than resource mobilization,” as it is widely accepted by academic circles. Hence, in this part we will discuss this dilemma in land expropriation resistance. To begin, the meaning of the dilemma of legality will be briefly introduced, and then, we will give the peasants’ a solution to this problem by linking literature research with my field work.

5.4.1 The meaning of dilemma of legality

What’s the meaning of dilemma of legality in rural resistance? According to China’s constitution, citizens are free to demonstrate. However, relevant laws, such as Public Order Management and Punishment Law (zhi an guan li chu fa fa) and law of Assemblies, Processions, and Demonstrations (ji hui you xing shi wei fa), create strict rules to follow. As a consequence, it is extremely difficult to institutionalize collective actions and social movements into legitimate expression while facing the dilemma of legality, i.e., the freedom of demonstration based on China’s constitution, which has no legal basis and no approval by local government in practice.

As for the land expropriation resistance, how peasants cope with the dilemma of legality has become a basic and principal issue. By examining existing resistance
studies, we can see three kinds of coping strategies: (1) organizing a collective resistance within the law or policy framework, like “policy-based resistance” or “rightful resistance” (O'Brien and Li 2006); (2) developing a tactful struggle led by a highly sophisticated elite who aims to avoid intentionally crossing the bottom line of law or government, such as “treading on but not crossing the boundary” (cai xian bu yue xian) (Ying and Jin 2000); (3) replacing with rationale, which could be the right to life or something widely accepted by folk society, like “resistance based on common sense rationality” (yi qing li kang zheng) (Luo 2013).

Combining existing studies together with my fieldwork reveals that a major peasant solution is to take advantage of the gap and conflict between their perception of land rights and land law. We will demonstrate this argument in detail below.

5.4.2 Perceptual gap and conflict of land rights

Studies show that a big gap between peasants’ understanding of land rights and the legal system within rural land really exists (Xu 2002; Hong 2007; Zhou 2009; Wang 2010; Jin 2011) and greatly affects peasants when their land is expropriated (Qian 2007; Xiao 2009; Peng 2013). In sum, there are two aspects of this conceptual difference of land rights seen below.

First, the peasants’ understanding of the ownership of rural land differs from the land law. China’s constitution stipulates that land in the rural and suburban areas is owned by the villager collective; however, a large number of surveys show that not all the peasants approve of collective ownership of rural land (Li 1995; Yu 2005; Qian 2007;
Shi 2009; Chen 2009). On the contrary, the peasants tend to think that the rural land belongs to the state or individual. Either way, their understanding of the ownership of rural land seriously affects land expropriation.

In situations where peasants believe rural land is owned by the state, they bargain with the government, as such “land belongs to the state, a bit more compensation is better than nothing” (tu di shi guo jia de, bu chang yi dian shi yi dian) and “they mainly want to get more compensation from the state”(Jin 2011). In the meantime, the understanding that “land belongs to the state” leads the peasants to “not exclude the state (from expropriating rural land)” (Zhang 2013), and “always focus on whether their own interest is increasing or not, rather than whether the procedure of land expropriation is legal or not” (Liu 2015).

The individual ownership of rural land refers to the “ancestor's inheritance property right” (zu ye quan), which means the land of peasants’ ancestors is allocated or bought before or during land reform (Guo 2010). Lots of studies show that the important cause of land right disputes is that the peasants’ understanding of land ownership relies on “ancestor's inheritance property right” rather than the land law (Guo 2010 & 2012; Chen 2012; Gui 2012; Yu 2013).

Second, given the length of time provided by land expropriation, peasants’ expectation of the onset of land expropriation can give rise to a lot of disputes. Yang Hua (2013) finds that once peasants believe (1) land expropriation is bound to happen, (2) land expropriation can bring benefits to them, and (3) the benefits should be earned, this
expectation will lead to a series of political and social impacts, such as factionalism, land disputes, and disintegration of the relationship.

Thus, it can be seen that peasants’ understanding of land rights is a prevalent and strong psychological driving force, which can greatly affect their strategy of land expropriation resistance. Certainly, the understanding does not create an opportunity for action by itself yet as it must link up with other factors to fully explain the complexity of land expropriation resistance.

5.4.3 The rationale of resistance

The perception of land right has only provided a possibility of land expropriation resistance. To develop it into a mobilization mechanism or a weapon of resistance, it should be transformed to a rationale. Connecting existing studies with my fieldwork, two psychological mechanisms, righteous indignation and upward comparison, contribute to the basis of a rationale of resistance.

5.4.3.1 Righteous indignation (yi fen)

This psychological mechanism is due to the widespread sense of injustice arising from peasants’ awareness of the policy of land expropriation. It can be observed in two aspects in land expropriation. First, the facts “nice guys finish last” and “those who don’t follow the rules receive a reward” in land expropriation, greatly challenge peasants’ value of justice. Several surveys show that nearly 75% of peasants think land requisition and resettlement compensation criteria is really unfair, and more than 50%
agree with “those who relocate early may suffer losses” and “being a nail household can gain petty advantages” (Wang 2010; Du 2011). Second, the rich and powerful can get more compensation, which challenge their understanding of fairness. For example, surveys show that nearly 70% approve of the idea that “those who have good relationships can get more compensation,” and more than 60% believe that rich and powerful people can be well compensated (Wang 2010; Du 2011). As such, the policies of land expropriation challenge peasants’ understanding of justice and equality of property and, subsequently, arouse their righteous indignation.

In my fieldwork a similar situation can be found (see chapter six). Here the righteous indignation offers vital psychological support to the rationale of resistance like a popular saying “if you treat us badly in a way that we do not deserve, we will give you an unjust response” (ni bu ren, wo jiu bu yi).

5.4.3.2 Upward comparison (pan bi)

Upward comparison means that due to the high non-uniformity of compensation standards of policy implementation, peasants do not want to be taken advantage of by others, so they try their utmost to gain more compensation by upward comparison (Zhu 2007; Sun 2013; Xing 2014; Wu 2015; Yu 2015; Chen 2016). Upward comparisons among peasants make them feel unsatisfied and unfairly treated with respect to their compensation; obviously, this stimulates them to resist against the government. In my fieldwork, it can be seen (in chapter six) that a large amount of upward comparison in the name of pursuing equality as a proverb says, “inequality rather than scarcity is the
cause of trouble” (bu huan gua er huan bu jun). Once peasants behave due to upward comparison, they will practically develop a specific strategy of resistance.

So, this research argues that developing a specific strategy for land expropriation resistance relies on the perception of land right, which results in righteous indignation and upward comparison. These psychological mechanisms, as a basis of rationale of land expropriation resistance, offer a response to the dilemma of legality.

5.5 BOUNDARY-TREADING RESISTANCE

This part will provide an answer to the question regarding the specific strategy of land expropriation, boundary-treading resistance. To begin, we will explain why some previous concepts are not suitable for our research, and, then, we will compare boundary-treading resistance with two other similar concepts. Then we will make a theoretical argument about this specific concept.

5.5.1 Choice of specific strategy of land expropriation resistance

Based on literature analysis, there are still some gaps between the existing conceptual frameworks of rural resistance and resistance action in my fieldwork. Take rightful resistance for example, as mentioned above, it is difficult to find political opportunity structure in land expropriation to support the legality of resistance because peasants are not able to find specific and profitable legal support from law and policy of the state to fight against local policies. Meanwhile, different from collective resistance as focused on by the resource mobilization view, peasants organize resistance by taking the family
as a unit in my fieldwork. In addition, relationship and emotional mobilization concepts are not so explicit when explaining the diversified strategies of peasants in a County. As for the rational choice theory, a lot of irrational resistance behaviors cannot be explained. All of which is to say, there may exist a new resistance strategy of land expropriation in my fieldwork.

Analyzing the collected data enabled us to develop a concept, boundary-treading resistance, to describe the peasants’ resistance. Before introducing it in detail, we want to make a comparison with other two concepts, “resisting within boundary and without rules” (you di xian wu gui ze) (Li and Cao 2015), and “treading on but not crossing the boundary” (cai xian bu yue xian) (Ying and Jin 2000).

In the view of Li Helou and Cao Feng (2015), the “resisting within boundary and without rules” concept contains three meanings: (1) Both the top government and the local government have bottom lines for their governance; the former mainly considers regime stability, while the latter more generally refers to some issues related to an official’s occupational safety, political future like local economic development, and social stability. (2) In most circumstances, petitioners’ expression of interest with demands and collective appeals will not touch top government’s bottom line, but may challenge the local government. (3) Under the background of “interest-seeking petition,” the concept specifically includes two aspects, appealing to the government for all kinds of issues and expressing their opinions through a non-institutional approach.

This concept discusses petitioners’ non-institutional behavior based on political opportunity structure, which emerged from the gap in governing goals between central
and local government. Here, the “bottom line” is clear, i.e., a political bottom line designed by the central government for the local one. Compared to “resisting within boundary and without rules,” “boundary-treading resistance” is the same with respect to its irregular behavior, but quite different with respect to its bottom line. As for “boundary-treading resistance,” the boundary is not a clear line like the political bottom line, but a constructed line in a specific property right incident. Specifically, (1) it is a changing and moving boundary, sometimes coming from government policy, sometimes designed by peasants; (2) by treading on it, peasants intend to get more land expropriation compensation rather than challenge the government’s authority; (3) the boundary treaded on shows different relations between the township government and villagers, the village collective and villagers, and among different villagers.

“Treading on but not crossing the boundary,” as a response to the dilemma of legality, contains two major meanings: on the one hand, peasants resist by treading on the boundary to catch the attention of the government after their interests have been infringed; on the other hand, they struggle by not crossing the bottom line to avoid providing ammunition for the government. “Treading on but not crossing the boundary” and “boundary-treading resistance” share two common elements: (1) both having a changing boundary and (2) both could possibly end in failure. However, they are different in the following three respects: (1) in response to the dilemma of legality, peasants adopted the “treading on but not crossing the boundary” strategy by not crossing the bottom line of local government, whereas peasants in C County resisted against government officers by probing the loopholes of the counterparty, such as government officers or developers; (2) in Ying and Jin’s research, peasants resist actively after the event, while in C County peasants can play an active role in
interacting with the government before or during land expropriation, and (3) “treading on but not crossing the boundary” is a kind of collective resistance, which can be considered by the government to be a growing mob of demonstrators gathering. Therefore it is very important that their actions must not cross the boundary. “Boundary-treading resistance” is mostly a kind of individual resistance based on perception of land right, so the legality of an action is usually not a priority.

In this research, boundary-treading resistance, which based its rationale on the perceptual difference between peasants’ ideas and state laws, means that land-expropriated peasants resist against the low compensation of land expropriation by (1) taking full advantage of various capitals, (2) probing into the loophole or defect of policies or officers, and (3) challenging traditional moral principles to gain more compensation of land expropriation.

5.5.2 Theoretical argument of “boundary-treading resistance”

In this part, three questions will be discussed to make a theoretical argument for “boundary-treading resistance.” In the next chapter, we will demonstrate its meaning through specific PR incidents.

5.5.2.1 Why peasants dare to tread on the boundary?

There are two answers to this question. First, after introducing the cognition factor into our theoretical approach, i.e., a structure-cognition-action theoretical approach, the perception of unfairness could be observed because of the land policy and
implementation of that policy that provides a rationale for the peasants’ resistance. From the peasants perspective, their resistance is reasonable. As a result, when they “plant house” (zhong fang zi), they can reasonably respond to the government’s query like this, “because of your unfair policy!” and “we are all being forced!” When it comes to “fake divorce” (jia li hun), they applied “no policies forbid divorce!” and “since you compensate by household, then we have to break up our family! Do you think we are willing?” As we can see from these, in their opinion, some of their behaviors, which are regarded as “illegal” or “dishonorable” by the government, are the results of unjust policy and unfairness of policy implementation, so the government and officials should take responsibility for that.

Second, peasants are really at an advantage when interacting with government. As they said, “now it is you who comes all the way to plead with me, not me asking for you!” Thus, the peasants present an ultimatum “we will not sign contract if our requirements are not met!” As a conclusion, treading on the boundary relies on two points: reasonable response and advantageous position.

5.5.2.2 How do peasants tread on the boundary?

Like many officials and cadres repeatedly emphasize in different circumstances, “treading on red line of the policy is not forbidden, but crossing it is not allowed.” However, there is not a clear definition about what one can do and what one cannot do. So, with respect to the peasants’ resistance, they typically learn the boundaries by trial and error. From the peasants perspective, if something beyond the policy is not seriously forbidden by government, then it is practically acceptable—“Without trying,
how do you know whether it is ok or not?” As a consequence, the trial and error breaks through the legality. Meanwhile, the specific strategies of this behavior mechanism are: (1) taking full advantage of various capitals, (2) probing into the loopholes or defects of policies or officers, and (3) challenging traditional moral principles.

5.5.2.3 What are the boundaries being tread on?

This question may be a little paradoxical, because we explain above that the boundary is a changing and moving boundary. In general, the boundaries tread on have all kinds of bottom lines, which restrict their efforts to maximize their compensation. Specifically, in a certain case, if the restrictions come from legal regulations, customs, or morality, etc., and the subjects are able to get rid of them, then we can say it is a legal, customary, or moral boundary, etc. After taking into account the perceptual factor and the mechanism of trial and error, the boundaries tread on are various and conditional, for the ultimate goal is to seek more compensation rather than to tread on all kinds of boundaries.

5.6 CHAPTER SUMMARY

After a brief introduction of existing resistance studies, we analyze the particularity of land expropriation resistance. Then by responding to the dilemma of legality with a rationale based on perceptual difference, this research finally develops our own answer that the land expropriation resistance is a kind of boundary-treading resistance. Our brief conclusion is that practical operation and final outcome of PR depend on action strategy and interaction of all parties involved in the land expropriation resistance
under structural constraints of the macro social background. The action and strategy of 
all parties are based on their perception and expectation to the property right and its 
change. It means that choosing a certain strategy of resistance is neither the direct result 
of structural and institutional factors, nor the simple outcome of subjective initiative of rational actors, but, as we discusses here, a result of the “structure-cognition-action” theoretical approach. The final effectiveness of structure and institution relies on the understanding of the actors; for the same reason, the legality of a protest action cannot be simply judged according to objective and external criterion. In land expropriation resistance in my fieldwork, it is the perception of land rights that provides the rationale of resistance. Meanwhile, it is the righteous indignation and upward comparison that affect the choice of resistance strategy. These two points, mentioned above in this chapter, are new to both theoretical and practical rural resistance.
CHAPTER 6 BOUNDARY-TREADING RESISTANCE AND THE PRACTICE OF LAND RIGHT

6.1 INTRODUCTION

Through a comparative case study, this chapter aims to examine the operation mechanism of “boundary-treading resistance” as well as its impact on the outcomes of government policy. The first part analyzes the peasants’ righteous indignation and upward comparison stemming from the unfairness and unjustness of the land expropriation policy and its implementation. The second part specifically illustrates the operation mechanism of boundary-treading resistance to demonstrate the different boundaries tread on by peasants. The next part briefly analyzes how rural resistance affects the land expropriation policy. In the final conclusion and discussion, we argue that boundary-treading resistance is a way to realize the composite property right and respond to the rural resistance dilemma of legality.

This chapter concludes that—based on the gap between state laws and local knowledge of land rights—peasants reasonability construct their rural protest and cover their own illegal acts of resistance with the formal legitimacy dilemma of government officers. This response mechanism to the legitimacy dilemma of legality proves successful, even in cases in which peasant resistance strategy is tactless.

6.2 PERCEPTION OF LAND RIGHT AND RATIONALE OF RESISTANCE

In chapter 5, through a literature review and the comparison of concepts, we delineate a new “structure-cognition-action” perspective and propose “boundary-treading
resistance” as a specific form of rural resistance. Owing to the theoretical nature of the discussion in chapter 5, there remain some unanswered questions that will be examined including: How have the peasants’ perceptual and psychological processes culminated in their sense of righteousness? What kinds of boundaries have been treaded on by peasants? How does this kind of resistance affect the practice of property right? We will address the above questions through the analysis of case materials, collected through our fieldwork in C County, and the examination of selected court cases, downloaded from openlaw.cn.

The land expropriation policy as implemented by the C County provides the structural context for the peasants’ land rights resistance. In this context, it is notable that the C County proclaims that its land expropriation policy has been approved by the session of municipal legislature and that it complies with the country’s land law as well as the land management regulations at the provincial level. A key aspect of the policy is for the local government to expropriate the peasants’ familial property and collective land by providing them with resettlement housing and basic welfare available for urban residents. However, it is evident from our fieldwork survey that the two most recent rounds of land expropriation have greatly challenged the peasants’ understanding of land rights and sparked a fierce controversy.

The connection between peasants’ emotion and their resistance plays a vital role in the conceptual framework of this chapter. Even though some fieldwork cases support this connection, it is necessary to cite existing studies for a theoretical foundation. Studies show that “resentment has become one of the most prevalent social emotions,” (Hao and Che 2011) and “this is especially true for land-lost peasants” (Zhu 2012). The
psychological causes of peasants’ resentment involve “their understanding of fairness and justice, which is inconsistent with the policy, law, and . . . implementation” and the existence of “‘pay less and get more’ groups and individuals, which make them feel a serious sense of relative deprivation” (Yu 2009). Resentment arising from the interactions between peasants and the government acts as a kind of political distrust, such as a “strong dissatisfaction with the impartiality and objectivity of policy made by government departments, as well as suspicion and resentment of the government workers’ administrative behavior” (Yu 2012). This finally leads to a concentrated outbreak of mass disturbance in some circumstances. These arguments provide clear conceptual connections for our research: (1) the unfair policy and policy implementation create a serious sense of relative deprivation; (2) peasants’ resentment stemming from this sense incites their resistance. Following the logic, we organize this part’s structure, as the resentment discussed here is completely suitable for the land expropriation in C County.

6.2.1 Land expropriation policies challenge peasants’ justice and equality

To demonstrate how the land expropriation policy has challenged the peasants’ sense of justice and equality, the following will focus on two components: the schemes of compensation and their implementation. This study will not consider whether the peasants give their consent to land expropriation.

A main aspect of the 2004 scheme of compensation is the so-called “one apartment for each home demolished” (chaiyi peiyi), which exchanges each peasants’ ancestral home
with a new one, regardless of the old home’s condition and quality. This policy resulted in huge amounts of outrage and anger.

What a fuck government! Nothing could be less fair than chaiyi peiyi! Some people live in a crude thatched hut, which is unsuitable for residency; others . . . work and . . . are in debt due to building a refined decorative house. However, they are both compensated in accordance with the same chaiyi peiyi standard! Even more exasperating is that those whose house is small and shabby of course consent to demolition and rush to sign a contract hurriedly; as a result, they can make it a priority to choose a better house type to receive a reward. On the contrary, those who have a better house certainly do not reconcile themselves to such an unpleasant situation and get into a tangle with government. But finally they have to accept: without getting more, no reward, and choosing the worst unit. It is exactly like ‘resisting the local bully and redistributing the landlord’s land to individual peasants.’ (da tu hao, fen tian di) It is unreasonable! (Group interview, 5 interviewees, July 2015)

Here, the hotly discussed topic is the exchange of each of the peasants’ old houses for one resettlement apartment. Generally speaking, it presents a good opportunity to improve the quality of housing. After all, the resettlement houses provided by the government are apartments with modern amenities, while the peasants’ are usually brick houses. However, from the perspective of peasants, whereas compensation in the form of a new apartment is “well-deserved” and “something for everyone,” which is therefore non-commendable, the scheme is undesirable and unfair because it seriously destroys the existing wealth ranking. The peasants, those who previously lived in thatched houses, are not capable of earning money and are gluttonous and lazy;
meanwhile those who lived in finer houses usually calculate carefully or work diligently and conscientiously. The policy makes two types of people stand on the same starting line of the wealth position. The outcome of this policy greatly challenged the peasants’ values with respect to fairness and justice—they felt that policy tricks honest people, while rewarding gluttonous and lazy people.

The next policy, introduced in 2009 to replace chaiyi peiyi, known as the “35 square meter per eligible villager,” comprehensively considers family population, house quality, and area etc., but still provokes some peasants to anger.

Team leader Xu: Most often, we team leaders are really very ambivalent about balancing upper-level government with ordinary people. The government provides a good policy and I can try to reason with commune member (she yuan). However, facing a bad policy, I feel less confident. As for the ‘35 square meter per eligible villager’ policy, those families which have less population with more house will surely suffer losses, while the opposite ones get a real bargain. Quite the contrary, those families with less population and more house actively support one-child policy, so their family burden is relatively light and they can build big houses. By comparison, other families, with more population with less house, bear extra children and are seriously punished by government, so they have no money to build house. When the policy was introduced, pointing at our noses, commune members desperately scold, ‘we originally answered our country's call to have only one child; now the policy fools us like that. Do cadres and the central government still need our continuous support in the future?’ (Interviewee, Xu, July 2015)
Compared with the previous policy, the new policy shows great improvement with respect to the accuracy of property confirmation and appraisal to ensure “shelter for all.” However, the new policy unexpectedly divides peasants into two categories: less population with more house (ren shao fang duo) and more population with less house (ren duo fang shao). It seems to the peasants that new policy punishes law-abiding people while rewarding those in violation of the country’s family planning policy, thus, challenging their concept of fairness and justice.

Combining peasants’ assessments of two latest policies, we discovered some special aspects of their concept of property. As for them, the objective and practical interests, such as a new apartment exchanged for their old brick house, is important, but the kind of property used as the basis of comparison is more important with respect to the promise that “every family has a house.” Although the policy change from the old “one size fits all” policy (yi dao qie) to the new differential treatment policy, the “praising vice while punishing virtue” component of the new policy makes the peasants extremely angry. Thus, it is not hard to find that peasants focus on the fairness and justice behind property, and care more about the interest based on intercomparison.

Although two policies hurt the peasants’ interest separately, challenge to the concept of fairness and justice infuriates most of them and strengthens their belief that the “government specifically bullies good men.” This perception affects their resistance. For example, they respond to the negative effect of “one apartment for each home demolished” policy by illegal construction and react to the “35 square meter per eligible villager” policy’s loophole by participating in mass fake divorce. In the peasant’s
opinion, “if you treat us badly in a way that we do not deserve, we will give you an unjust response.”

Even land expropriation officials feel the unfairness arising out of this policy.

Leader of demolition team: The “35 square meter per eligible villager” policy is not scientific. In my opinion, the government aims to benefit everyone by resisting the local bully and redistributing landlord’s land to individual peasants. However, it affects the affluent. They, working diligently and conscientiously all their life, do their best to build a house and raise a family. Now you demolish their house and ask them to buy your apartment; then they will do accounts and find they suffered a big loss. Actually, the government intends to solve difficulties of those who have no houses. Indeed, their problem is solved, but a new question arises: others who work arduously during their life to build a house are unconvinced. Officially, it is not allowed to compensate them more, so this policy will make them feel very uncomfortable and unbalanced….After the 37th document is introduced, I claim that it is like the land reform, which resists the local bully and redistributes landlord’s land to individual peasants, and makes the poor get even with the rich. For the rich families, all your hard work is in vain; while for the poor and lazy families, now you are all right. Both of you get the same houses now. So, peasants do everything possible to exploit an advantage. (Interviewee, Yang, July 2015)

The above three interviews—the group interview, the team leader Xu interview, and the leader of the demolition team interview—are from conversations with peasants, cadres,

12 The same as “35 square meter per eligible villager” policy.
and officers separately. The standpoints of different interviewees vary greatly. Peasants have their land expropriated. Cadres are also land-requisitioned peasants as well as helpers of policy implementation, while government officers represent the State. Nevertheless, their understanding of the policy is strikingly similar. The government official’s idea has two revelations. First, the policy’s unfair effect indeed existed. Second, their understanding of the policy’s defects and the cause of the peasants’ anger creates new questions with respect to the policy implementation which we discuss below.

6.2.2 Policy implementation lacking in unified standards stimulates peasants’ upward comparison

To accomplish the land expropriation task, local governments provide several incentives and compromises through unwritten practices and unspoken rules. For example, the town government will give a working group 10,000 yuan as a reward if it successfully demolishes all the houses of a production team. Furthermore, when understaffed, workers at the county level also take part in land expropriation, but some of them are really inept when it comes to disputes due their lack of grassroots work experience. As a result, the practical rule is that it is okay to demolish houses as long as peasants do not cross the policy bottom line too much. Consequently, this multiform policy implementation stimulates peasants’ upward comparison.

Leader of demolition team: So, I surely understand peasants’ feeling. If different regions share the same policy, peasants will act without upward comparison and have a balanced state of mind. Nevertheless, if the policy is executed laxly in one region and
strictly enforced in another place, peasants will compare with each other. Only if everyone is equal before the policy, the land expropriation work will get easier….However, when reporting their work to the County government, some town officials argue it is difficult to do demolishing work, so the workers can execute laxly as long as they do not seek personal gain….In conclusion, if we execute policy strictly, there will be no obstinate man (diao min); if the policy is not followed, we will give the peasants something later. Upward comparison makes a man obstinate (pan bi chu diao min). This is simple. (Interviewee, Yang, July 2015)

Upward comparison means that peasants will always want greater compensation than others receive. Because policy implementation cannot maintain a unified standard, peasants have to ask for more compensation than others to avoid suffering losses. Specifically, the upward comparison includes at least three circumstances: (1) ordinary people compare with nail houses to refuse to relocate, (2) previously-demolished households make a comparison with now-demolished ones to ask for price difference compensation, and (3) peasants who get less compensation draw comparison with others to spread gossip. All these situations in turn contribute to the distortion of policy implementation.

As the above analysis demonstrates, the land expropriation policy inevitably challenges peasants’ conception of fairness and justice because the “one size fits all” regulation is not appropriate to the complexity of their property. As a result, peasants are provoked to anger. Meanwhile, the absence of a unified standard and the wide discretion of policy implementation stimulate peasants’ psychological imbalance and upward comparison. Consequently, the land expropriation policy and its implementation become “unfair
official words” (Wang 2005) in the village: they are regarded as a legal expression and get support from law and local officials, but they are in conflict with the practical logic of everyday life. As such, the policy is transformed, in the peasants’ opinions, into an “unfair” or “bullying good men” force that stimulates anger and resentment. Thus, peasants resist the policy to safeguard their property rights by seeking justice and upward comparison—this is the perceptual and psychological basis of their resistance.

6.3 THE STRATEGIES OF BOUNDARY-TREADING RESISTANCE

With chapter 5 providing a brief definition of boundary-treading resistance based on concept comparison, this chapter aims to illustrate its meanings in practice through case analysis. Boundary-treading resistance, whose rationale is based on the perceptual difference between the peasants’ idea and state laws, means that land-expropriated peasants resist the government by (1) taking full advantage of various capitals and (2) probing the loopholes or defect of policies or officers to tread on different bottom lines and gain more compensation of land expropriation.

To clearly illustrate its meaning, this part organizes fieldwork cases into three categories. First, as to the relation with the state, the peasants’ resistance treads on state laws and land institution by taking advantage of their capitals. Second, in terms of the peasants’ relations with the local government and developers, their strategies rely on probing the counterparty’s loopholes and treading on boundaries of administrative enforcement of the policy. Third, in regard to the relation among villagers or familial relationships, their behaviors challenge the village rules and traditions, treading on the boundaries of traditional moral principles. Such a rough classification aims to include
more cases as well as to illustrate its pervasiveness in different level relations. In each part, we begin by discussing the perceptual difference among peasants to explore their resistance rationale. Then we analyze the resistance strategies and the boundaries they tread.

6.3.1 Taking full advantage of various capitals

According to land laws, the collective owns rural land, but most peasants regard the State as the owner of rural lands, which is observed from their statement that “the lands belong to the state; it is useless to prevent land expropriation.” By regarding the State as the owner of rural land, peasants are powerless to stop land expropriation; however, they are forceful to claim more compensation. In their opinion, to deal with the relation with the state, one should apply oneself to pursue more compensation. This can be seen in their strategies of calculating the house area in demolition.

In C County, the expression “compensation comes from the state, why would we refuse them?” (guojia de qian, buyao bai buyao) is widespread. It has four different meanings. First, our houses are demolished at such a low price, so we deserve to gain more compensation. Second, even if I get more compensation from the state, it does not invade other people's benefits. What is the good for you if you stop me? Anyway you cannot get it, why you offend me? Third, it would be my huge loss to refuse the compensation, for others will seek them. Fourth, getting more compensation means you are capable. A common scene in the local teahouse is a group of peasants sharing their rich experiences with resistance, feeling capable rather than disgraceful.
With respect to calculating the architectural area of a house to be demolished, the policy document provides a clear boundary, “a building to be demolished and compensated must be legal, intact, and valuable; any of the following situations will not be compensated: illegal construction, abandoned facility, natural road, ditch, and stone dam around house” (Article 22). This policy means a building deserving of compensation must simultaneously satisfy three conditions, having a legal procedure, being intact, and being valuable. It also confirms that three kinds of buildings cannot be compensated: illegal, abandoned, and natural. However, in practice, there is another boundary as the following interview shows.

Leader of demolition team: In the matter of resettlement, there is an opinion treading on, but not crossing the boundary (cai xian bu yue xian). For example, I build a house one time or put up (da jian) a house for many years, so you cannot distinguish between legal and illegal. In fact, putting up a house can be illegal, if the area of illegal building seriously exceeds its house property certificate. In that case, it can still be evaluated as either a legal and effective part as long as it is not a rush built house, especially not rushing to build because of land expropriation. The Construction Bureau provides regulations that a rush built house this year is certainly not allowed, and must be demolished as scrap value…as a consequence, there is a large space to operate. (Interviewee, Yang, July 2015)

As the official reveals, the government and its officers care more about whether or not peasants do a rush job of building a house to gain more compensation. From their view, newly-built houses will not be admitted and compensated—instead, they will be regarded as scrap value. That is to say, officers perform another regulation, “from the
date of public announcement, land-expropriated rural collective economic organizations and villagers are not allowed to rush to build; otherwise, the newly-built houses will be completely uncompensated” (Article 34).

This shows that there are two standards: article 22 defines a legal house according to the quality of the building, while article 34’s concern is the building time of houses. As for a building constructed before the date of the public announcement, but without a legal property right, article 22 defines it as illegal, while article 34 gives officers more discretion over it. So, the official says “there is a larger space to operate.”

Specifically, the “space to operate” includes two situations. First, as for an illegal home built before the date of public announcement, which can be accepted by article 34, but refused by article 22, officers can transform it into a legal property to gain compensation with their discretion and peasants’ operation. Second, even an illegal home built AFTER the date of public announcement can be transformed into a legal property if officers do not seriously obey the policy. Within the two situations, the policy is violated more or less by the peasants.

Even if there is a certain amount of room for maneuver (boundary-treading), it remains the case that not all peasants have the ability to make use of the room. It depends on the various capitals possessed by the peasants and the ways they strategically make use of them. Let us firstly share three cases about peasants’ capital operation.

Case 1:
Team leader Jiang: he (the demolition team worker) lets me say my demands, and I
say three houses and two garages. My demands are accepted without much deliberation. At first, I do not know I can ask for more; later, the town government shows consideration for me. For example, my houses only have 400 m² totally; the demolition team worker tears up the drawing construction bureau made, measuring again, adding nearly 200 m². Since our families only have one hukou, I have to buy some areas at the price of 2500 Yuan per m². Finally, I get more compensation worth more than 100,000 Yuan. In my opinion, it is ok as long as I am not fooled and suffer a loss. So, it just cost me 200,000 Yuan, with my 400 m² houses, to get three houses and four garages. (Interviewee, Jiang, July 2015)

Case 2:
Leader of demolition team: One leader of another working team, a member of Shi Dun village, commits fraud on calculating house areas in his hometown. As you know, he cannot possibly help you for free. . . . To tell you the truth, some leaders definitely end up in prison. For example, a building in the countryside, usually 200 m² and three-layer-structure, is totally 600 m² at most. However, why do a large number of houses with 800-1000 m² emerge? This is one major drawback of policy. I demolish peasants’ houses, and they are satisfied to gain more compensation worth several hundred thousand Yuan. Without a relationship, how can you get any benefits from me? (Interviewee, Yang, July 2015)

Case 3:
Former village party secretary: In 2000, I was party secretary, and one of my friends who works in the County told me that my village would be demolished. I quickly deployed by building new houses. Consequently, I build a new building in three
days! (So quickly?) The first day friends and relatives come to help me to lay the foundation of the house; the second day we go to brickyard to carry bricks and fiber cement board, for my son is the boss of the factory. The last day we finish a building. Following my construction, other villagers all do a rush job of building houses; thereby, large-scale temporary building projects jam the roads! Our village is located in the new county town, a perfect location for commercial development. Government do not find our building houses until the traffic jams get worse and worse; at that time, we have finished building. Afterwards, the government starts considering the solution. First of all, we are fined by Jiu Long town government, at the price of fifty Yuan per square meter. I pay the fine and keep the receipt. Ridiculous! Later, since the National Land and Recourses Bureau (NLRB) thinks the fines are too low to take effect, we are fined again by NLRB, thirty Yuan per square meter. Pay the fine and keep the receipt again. After they left, I rush to build another building. In the beginning of demolition, government does not admit our newly-built houses; we kick up a fuss about this. Finally, government compromises to compensate those houses that have paid the fine. I hold out two receipts for my two newly-built houses separately; government has to admit them. I have three houses totaling more than 800 square meters. At last the government compensated me 8 houses! (Interviewee, Zheng, July 2015)

The three cases refer to getting more house areas, which certainly violates the policy. In the following, we firstly analyze each case’s situation and then discuss their strategies, like capital operation.
Firstly, all the owners of houses violate the policy. Specifically speaking, the team leader in case 1 practically owns 400 m² house; however his house is calculated as nearly 600 m² and his family makes more than 100,000 yuan in gains. Obviously, he provides false information of house area. In case 2, lots of peasants in Shi Dun village also provide false information and get more compensation. In case 3, the former village party secretary turns his illegal houses, both built after the date of public announcement, into legal property and get compensation. Although their illegal houses are successfully compensated, their actions are not allowed by the policy with some of them violating the law.

Secondly, all of the interviewees apply their capital. The team leader uses his social capital, patron-client relationship. Through his identity as a village cadre and a client, he provides help for the demolition team worker as his leader. “If I do not lead the way for them, they cannot find a peasant. Even though they get one, it is impossible to enter his house. Without my introduction, peasants will not take notice of you.” Taking advantage of his political identity, he receives this privilege and his demands are proactively satisfied by government. Here the policy boundary he breaks through is neither an illegal historical building nor a rush-built house, but a property right that appeared out of thin air.

The peasants in Shi Dun village also utilize their social capital, strong tie. With the help of the social network they can receive more compensation than those without social capital. By falsifying house property information, they violate the policy and the law, but there is no evidence in their cooperation in this because of the existence of their social network, as the interviewee says “for you do not know, I also have no idea about
it; even though the superior Commission for Discipline Inspection of CPC is not able to find evidence. To do it like this will not get out of line.” In case 3, to have his rush-built houses legally recognized and compensated, the cadre takes advantage of various capitals, such as social capital in the form of information provided by an acquaintance, economic capital in the form of the money used to construct the house, and human capital in the form of the ability to mediate with local government. It is worth mentioning that the cadre was fined by two government departments on two separate occasions for illegal buildings. However, the then secretary used the loophole in the policy implementation to legitimize the illegally rush-built houses by paying the penalty. This could also been viewed as the operation of symbolic capital by misidentifying his illegal houses as legal property.

In sum, in relation to the state, peasants: (1) construct a perceptual reason, “compensation comes from the state, why would we refuse them,” (2) explore a policy boundary between illegal and legal property, and (3) operate their various capitals and break through the policy restrictions with boundary-treading behaviors.

6.3.2 Probing into the loophole or defect of policy or officer

The decision to engage in boundary-treading resistance is also shaped by the local understanding of state regulation and local knowledge of the specific ways in which land expropriation policies are being implemented. As such, failings of the government officials, weaknesses of the administration and law enforcement agencies, as well as mistakes committed by other parties in the processes of land expropriation will be fully exploited. The following will look at two issues: first, time when land expropriation is
considered “complete” and beyond dispute; second, circumstances under which resistance may be staged.

Legally speaking, the ownership of expropriated land has transformed from the collective to the state—after land is auctioned off, even the owner of the right to use changes. When both the owners of ownership and right to use have changed, continuing to exercise these rights is deliberately provocative or ignorant. However, in the folk society’s understanding, “extended” or “attached” land interest is within the collective property rights (Sheng et al. 2005). So, in order to claim rights in the expropriated land, peasants continue to plant, hit rocks, and pick up trash. The gap between the local knowledge and state laws provides a rationale for peasants’ to stop construction.

The following two cases may be used to illustrate this point.

Case 4:

Grandpa Li (peasant representative): Once, a township leader warned us not to stop a public project; otherwise nobody can help us if we are in trouble. So, we wonder, how about the private one? Then, we organized a group of villagers to stop a middle school’s construction. (Does this not . . . finish the procedure of buying the land?) Done! However, there is a dirty trick. For it is a public welfare project, but the private boss take out a piece of land to build [a] teacher dormitory, which can be sold to teachers at a price lower than market. If we inform against him, making it a big piece of news, then his problem will be exposed. Finally, he gives us 70,000 yuan, and we each get 300 yuan. In the same way, we stop all the attracting investments projects (zhaoshang yinzi xiangmu) in our village, and make a good
profit. (Interviewee, Li, July 2015)

Case 5:
Villager: Our former village leader is so irresponsible! At that time, our land is expropriated to build a railway. However, the town government does not compensate us for a long time. He has a lot of complaints about the government; certainly there are also other reasons. So, he organizes us to stop the construction of railway. The railway administration is not to be trifled with, does not take us seriously, and arrests some of us really. Four young men are put into prison for twenty months, and others are being beaten. At the beginning, the leader tells us what to do behind the scenes; later, when we get into the accident, he runs away and hides himself. Such a bad person! (Interviewee, Zhang, July 2015)

In the above two cases, although stopping construction seems to make trouble in their expropriated land, it is reasonable to seek interest or claim the right in folk society. For example, in case 4, they argue against it,

That is our land, and it is our great loss to be expropriated at a low price. Now others are abusing our land, then how can anybody stand it? . . . . If others can eat meat, why cannot we drink soup? No matter what, that is our land. If we do not have it expropriated, can you benefit from it?

Case 5 refers to peasants’ understanding of accomplishment in a land transfer. In the peasants’ perspective, land transfer does not end as long until they are totally compensated. So, “making trouble” in the original land is not only a strategy to force a solution to their problem, but also an understanding of the end of land transfer.
So, usually it can be observed that peasants have their problems solved by refusing to receive compensatory funds or by making trouble in expropriated land. In other words, peasants’ local knowledge of extended land interests, which is different from state law, but is reasonable in folk society, provides peasants with a rationale of resistance.

With the rationale of resistance, if peasants can probe into a counterparty’s loophole, they resistance would be skillful. For example, in case 4, the boss runs a public welfare project, but building the teacher dormitory to sell violates regulations pertaining to the use of allocated land (hua bo di), leaving a loophole of land use. As the interviewee says, “If we inform against him, making it a big piece of news, then his problem will be exposed,” and the boss would subsequently face serious punishment. Finally, the boss swallows an insult under that condition. However, in case 5, the railway administration does not leave room for peasants, so their strategy fails.

Apart from the local knowledge of “extended land interest” and time to engage in resistance, peasants also exploit their knowledge of the government officials’ failings, weaknesses of the administration and law enforcement agencies, as well as mistakes committed by other parties to employ resistance decisions and actions.

First, we will examine the exploitation of the government officials’ failings and weaknesses of the administration and law enforcement agencies.

Case 6:
In May 2013, as the demolition team calculates the removal compensation money for his family, the peasant asks for more gains and promises to give the working team
a “favor fee.” He wants a part of a collapsed house (nearly 60 m$^2$) and his unborn grandson to get compensation. Finally, he gets more compensation, worth 60,000 yuan at the cost of 20,000 “favor fee.”

In the same way, the demolition team makes a deal with another eleven villages. When this is appealed by public prosecutors, the working team members disgorge ill-gotten gains and confess to all the crimes in court. All the workers are sentenced to 2.5-5.5 years; however, none of the villagers who bribed the officials are punished by law.(court file from openLaw.cn, November 2014)

Case 7:

Grandpa Long: There is a totally unreasonable gangster in our village, surnamed Hong. Nobody dares to provoke him. Once he was blamed for fishing in other’s fishpond; the next day he dumped a bottle of pesticide into the pond. How evil a guy! The police station simply cannot do anything with him. Hong builds a no-house “residence” only with subgrade to ask for compensation at the price of . . . a two story building. You know, according to policy you must have a house to gain compensation. Refused by the government, Hong himself run[s] to the township head’s office, turning over tables, throwing away computers, and threatening to hit the leader. So indecent! He is arrested and imprisoned for seven days. After released, he get two houses as compensation. Ha-Ha, others dare not follow his example. (Interviewee, Long, July 2015)

Let us first introduce some background information for the above two cases. In case 6, the peasant’s factitious demand for more compensation is confronted with a serious obstacle in satisfying the restrictions of policy, because “collapsed houses” and “unborn
child” do not meet the criteria of “property right” and “membership” separately. In case 7, what Hong does tells another story. According to the officer’s criteria, if a no-house “residence” with only subgrade of house asks for compensation at the price of a two story building, this demand unquestionably surpasses the policy boundary. Thus, if the policy regulations are maintained, neither of them can receive compensation.

Next, let us analyze their strategy. In case 6, the peasant uses two features of the government officials’ failings: weaknesses of the administration and of law enforcement agencies. First, we witness the officials’ acceptance of bribes. In particular, the nine workers of the working team are charged with soliciting bribes from twelve peasants in the same village. By taking advantage of the working team’s avarice, his family gets an extra 60,000 yuan in compensation at the cost of 20,000 yuan as a “favor fee” (hao chu fei). Second, we examine the laxity in law enforcement. In this case, the twelve peasants, as bribers, are not penalized for bribing the officers. Thus, in the matter of calculating house area, the peasants have not been punished because of their bribing officers, so they will be greatly encouraged to push the boundary of that policy.

Before analyzing case 7, some detailed information should be shared. Taking great interest in this case, we asked several people familiar with it and got some plausible explanations. First, Hong’s identity as a gangster plays a role. “He is a gangster who acted extremely irresponsibly. In the final analysis, government officials work for the public to support a family. Impartially and seriously treating this issue, you get nothing beneficial, but foster a personal grudge against him. It really does not make sense” (a cadre of Hong’s village). Second, the government’s real concern is whether or not other peasants will follow his example, if they respond too weakly to this issue. Reality
proves that fear over that situation is unnecessary. Third, political considerations matter in this case. Because Hong’s village is expropriated to build the Lan-Yu Railway as a gift for the 110th anniversary of Deng Xiaoping’s birth, and a news that president Xi will go to Deng’s hometown from Chengdu by China railway high-speed spreads like wildfire. Therefore, the local government has to cut the Gordian knot by settling this dispute as the deadline for this project is too tight. So, this story is easily interpreted as an “evil conquers good” story because the local government has a skeleton in the closet as the political consideration shows. Here, Hong took advantage of the weak administrative ability of the local authority—the town government’s fear of rural evil forces—to successfully resist.

We found a similar situation in a previous case, like case 3. In that case, weaknesses of the administration involved at least include two matters. First, we examine the local government’s replacement of the property right certificate with a fine receipt. A fine receipt means that the building is illegal, while a property right certificate means the building is legal. According to some interviewees, the replacement disappoints many peasants. Second, we examine duplicating charges. It was the duplicating charges from two government departments that led the former village party secretary to illegally build another building.

We now consider the use of mistakes committed by other parties to make decisions on resistance. Through a comparative case study, a specific resistance strategy can be summarized: being reasonable and finding faults with others (you li you ba bing). “Being reasonable” is based on peasants’ local knowledge of land rights, and “finding faults with others” means peasants have evidence against others. Although their
“reason” strays from state laws, they could put pressure on a counterparty to have their demands satisfied as long as they obtain favorable evidence. For example, in case 4, there are two features that support the peasants’ success. First, we look at their perception of land. Even though the land is expropriated, they regard it as their land, allowing them to reasonably enter the construction site. Second, we look at the developer’s improper operation of the public welfare program. Due to this improper operation, the peasants could say “now others are abusing our land.” This can be considered employing the same resistance logic in another place. For example, chapter 3 provides a case, in which the peasants extort lots of money from the developer because the developer damaged their ancestor’s coffin before they signed the contract with government. In that case, the local knowledge of feng shui and the developer’s fault jointly contribute to the peasants’ successful resistance. Both cases show that if peasants can find faults with the other side, their resistance could be effective—making this a perfectly feasible strategy.

So, in terms of the relation with local government or developers, combining their perception on land right, the peasants’ strategies rely on probing counterparty loopholes to force those counterparties to make concessions.

6.3.3 Challenging traditional moral principle

The goal of boundary-treading resistance is to break through restrictions. Within families and communities, traditional moral principles and village rules are strict restrictions that typically must be followed if peasants want to get more compensation. The following will analyze a perceptual factor for why peasants would challenge
traditional moral principles. Then we will use cases illustrate their specific strategies for such challenges.

Peasants’ different perceptions of requisitioned land and demolished house can better explain their challenges to moral principles. In their view, the requisitioned land is state-owned, while the demolished house totally belongs to them. This perceptual difference leads to completely different resistance strategies. Particularly, when it comes to compensation of requisitioned land—through the psychological effect of “compensation comes from the state, why would we refuse them?”—peasants apply themselves to gain the maximum compensation by transferring their married daughter’s huji back, or changing a family member’s huji from citizen to villager and so on. As far as the demolished house is concerned—affected by the idea “it is my house, I can do whatever I want”—they will resist in order to receive more compensation by means like re-registering the household, fake divorce, and claiming wasteland to be a graveyard (zhi di wei fen).

Due to these perceptions, peasant strategies vary. The following four cases aim to illustrate those various strategies, two of which failed and two succeeded. Table 1 briefly summarizes the information. We will separately discuss these cases, focusing on violations of family ethics, as in cases 8 and 9, and challenges to traditional morals, as in cases 10 and 11.
Table 6.1 Comparative cases

<table>
<thead>
<tr>
<th>Case</th>
<th>Story</th>
<th>Strategy</th>
<th>Boundary be treaded on</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>Forcing father to get divorced to gain demolished compensation</td>
<td>Fake divorce</td>
<td>Pureness of affection</td>
</tr>
<tr>
<td>9</td>
<td>Competing for a social security quota in the family</td>
<td>Quarrelling</td>
<td>Moral law of traditional ethic</td>
</tr>
<tr>
<td>10</td>
<td>Making fake skeleton to get compensation for digging the grave</td>
<td>Fake skeleton</td>
<td>Respect for the deceased</td>
</tr>
<tr>
<td>11</td>
<td>Pretending to be the offspring of household enjoying the five guarantees</td>
<td>Employing trickery</td>
<td>Conscientiousness</td>
</tr>
</tbody>
</table>

First, we examine the violation of family ethics.

Case 8:

Liao Moujia (male, 53) and He Moujia (female, 49) grew up together in the same village and are married. Liao, with only a stone house and a long-term illness, is out of work and has no income. He Moujia, who has worked for the County for a long time and takes good care of her husband, turns the bungalow into a building with her pre-marital property. Thus, these two parties, with a good relationship, have not been living separately. The villagers and village committee testify that the couple is very affectionate. Because of the land expropriation in 2015, Liao’s daughter forces him to sue for a divorce. Thus, by filing a lawsuit, he sues for a divorce and requests a division of the couple's joint property. He Moujia did not agree to the divorce and argued that the real reason for the divorce is that their housing was going to be expropriated by the government. The court rejected Liao’s claim.(court file from openLaw.cn, July 2016)
Case 9:

Village head: When the social security quotas are much less than the number of the elderly family members, there will be fierce competition between family members. For example, in team four, to solve this problem, they hold many meetings. Everyone wants access to the social security, therefore competitions arise between father and son, daughter-in-law and mother-in-law, and brothers and sisters; because it refers to interest. So we can see that when facing money distribution, affection between family members gets weak. In a family of my team, a daughter-in-law competed with her father-in-law . . . and his head ended up broken and bleeding; the daughter-in-law scolded, “since you will not enjoy it for a few years, why not get out of the way?” (Interviewee, Jiang, July 2015)

The ethic of respecting seniority is vital in family values, but it is violated in cases 8 and 9. Case 8 refers to a widespread phenomenon, fake divorce. Through a policy loophole and household management irregularity, fake divorce is profitable (see chapter 4). Fake divorce challenges a moral boundary by betraying one’s spouse for money. The special factor in case 8 is that the daughter asks her parents to get divorced, rather than her parents intending to do so premeditatedly. In order to meet legal condition in divorce, by evidencing a rupture of affection, the husband has to produce evidence of their daily trifles; however, he does not do so. Although the particular situation in case 8 may be rare, it reflects a serious violation in family values. Case 9 is about partial land expropriation, which means only part of the land was expropriated, resulting in insufficient social security quota allocation. According to the village head, the specific allocated number of social security quota is decided by age, following a rural society tradition of respecting the elderly. Although social security benefits actually belong to
the whole family, they are normally held under the name of the oldest person. This arrangement is conducive to improving the family status of the elderly; thus, some elderly people are eager to become the holder of social security because it is embarrassing for them to ask for pocket money from the younger generations. However, due to the real-name rule of the social security system, the benefits are automatically cancelled once the elderly person passes away. Due to this, as seen in case 9, some daughters-in-law rebuke their elderly fathers-in-law, “Since you will not enjoy it for a few years, why not get out of the way?”(chi bu le ji nian jiu yao si le). This familial competition over the social security quota challenges the boundary of a moral law of traditional ethics.

Second, we examine the challenge to traditional morals.

<table>
<thead>
<tr>
<th>Case 10:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leader of the demolition team: The same situation applies to digging graves. Peasants claim to have several graveyards, but who really knows? Once, we face[d] such a situation: a peasant claimed a graveyard, but we did not excavate a piece of bone, and then, we ma[d]e a scene with him. Later on, we found that the peasant passes bricks off as the skeleton of his ancestor; obviously, it is not allowed, so we refused his demand. In fact, it is widely common, but many working teams do not discover it. In another situation, a peasant used cattle bones, and we jeered at him, “why are your ancestor’s bones so much bigger than yours? It must be cattle bones!” (Interviewee, Yang, July 2015)</td>
</tr>
</tbody>
</table>
Honoring the dead is another traditional moral principle, but this principle is challenged in the above two cases. The difference between the two cases is that someone in case 10 desecrated their own ancestor’s body, while in case 11, the dead are violated by unidentified villagers. Specifically, case 10 relates to the local custom of digging graves, which has been widely regarded as a serious business. Although the trick in this case becomes public, this behavior is widespread and, as the leader of the demolition team says, the government workers are familiar with the trick, but usually do not want to expose it. Case 11 involves another story about digging graves. As the interviewee said, the household enjoying five guarantees had no offspring, but the compensation for digging this family’s graves is received by someone claiming to be their children. Receiving this compensation is not tolerated by traditional custom because it is viewed as receiving money immorally through the violation of dead ancestors. Thus, in case 11, the boundary of this traditional custom was challenged.
As for the relationships among villagers or within families, the traditional moral principles restrict the receipt of ill-gotten gains. Therefore, in order to receive more compensation, the peasants must challenge the common family and community values.

Through the above analysis, it can be observed that boundary-treading resistance exists and continually challenges various boundaries of legal regulations and ethical or moral rules. The boundary-treading resistance results in the use of some skillful and some tactless methods of resistance, which may eventually lead to the success or failure of the resistance efforts.

6.4 BOUNDARY-TREADING RESISTANCE AND PROPERTY RIGHTS POLICY CHANGE

This part tries to discuss the impact and influence of peasant resistance to the land expropriation policy in C County. The influences mainly include two features. First, peasant resistance perfects the policies by correcting their defects. Second, peasant resistance helps monitor administrative law-enforcement actions. The following will examine these features separately.

6.4.1 Rural resistance promotes change and improvement of land expropriation policy

Two direct consequences of boundary-treading resistance are changes and improvements to policy as follows.
First, we will examine the policy change from “one apartment for each home demolished” to “35 square meters per eligible villager.” As we have analyzed above, both policies have obvious disadvantages and stir up anger and resistance in peasant populations. As a result, they have been terminated. Take the “one apartment for each home demolished” policy for example—because it treats different levels of house qualities the same, the owners of good houses feel that this policy is extremely unfair and construct illegal buildings to make up for their losses. This outcome intensely embarrasses the governments: as their policy to demolish peasants’ houses leads to a contrary behavior—the construction of more houses. Moreover, this policy contains a fatal weakness once the government accepts this illegal construction—as this is equal to saying that it is acceptable to cross these regulatory boundaries as long as you are brave enough. As a consequence, this policy was quickly terminated. Similarly, the “35 square meters per eligible villager” policy also results in an ironic effect such that nice guys finish last and rural society’s moral compass is damaged because of the numbers of fake divorces. In response, peasants blame the policy with indignation, “it is the government that makes our family broken!” In 2016, the Guang’an municipal government decided to compensate land expropriation with money, which led to the termination of the practice of the “35 square meters per eligible villager” policy.

In addition to policy changes, policies can be improved by implementing them with leniency in order to create more fair and equal policies. To cite just one example, the compensation criteria for buildings have improved through lenient implementation.

As seen in the next two tables (Tables 6.2 and 6.3), two changes are apparent. First, the 2013 compensation criterion contains three more items than the 2009 one, loam wall (tu
qiang) structure/timber structure, color steel room, and simple structure. Obviously, as an official response, the government, in practice, accepts the illegal construction of buildings by peasants. Second, compared to 2009, all kinds of compensation criteria have greatly improved, and the price gap among different levels of property quality has obviously increased. As a result, peasants gradually give up illegal construction as the financial incentive decreases. More and more peasants believe that the latest compensation criteria for surface buildings are more appropriate, as they offer more equitable compensation.

Table 6.2 Compensation criteria of the buildings on the surface in 2009

<table>
<thead>
<tr>
<th>Structure</th>
<th>Level</th>
<th>Compensation criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frame structure</td>
<td>First</td>
<td>600</td>
</tr>
<tr>
<td></td>
<td>Second</td>
<td>580</td>
</tr>
<tr>
<td></td>
<td>Third</td>
<td>540</td>
</tr>
<tr>
<td>Brick-concrete structure</td>
<td>First</td>
<td>500</td>
</tr>
<tr>
<td></td>
<td>Second</td>
<td>460</td>
</tr>
<tr>
<td></td>
<td>Third</td>
<td>420</td>
</tr>
<tr>
<td>Brick structure (contains brick, brick-timber, column and tie construction, and stone house)</td>
<td>First</td>
<td>380</td>
</tr>
<tr>
<td></td>
<td>Second</td>
<td>360</td>
</tr>
<tr>
<td>Loam wall structure</td>
<td>First</td>
<td>200</td>
</tr>
<tr>
<td></td>
<td>Second</td>
<td>180</td>
</tr>
</tbody>
</table>

Source: Government policy (2009)
Table 6.3 Compensation criteria of the buildings on the surface in 2013

<table>
<thead>
<tr>
<th>Serial number</th>
<th>Item of compensation</th>
<th>Compensation criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Frame structure</td>
<td>900</td>
</tr>
<tr>
<td>2</td>
<td>Semi-frame structure</td>
<td>830</td>
</tr>
<tr>
<td>3</td>
<td>Brick-concrete structure</td>
<td>750</td>
</tr>
<tr>
<td>4</td>
<td>Brick(Stone)-timber structure (contains column and tie construction, stone house)</td>
<td>550</td>
</tr>
<tr>
<td>5</td>
<td>Loam wall structure, timber structure</td>
<td>400</td>
</tr>
<tr>
<td>6</td>
<td>Color steel room</td>
<td>300</td>
</tr>
<tr>
<td>7</td>
<td>Simple structure (contains pigsty and cow enclosure)</td>
<td>150</td>
</tr>
</tbody>
</table>

Source: Government policy (2013)

6.4.2 Rural resistance helps monitor the administrative law-enforcement actions

There are two characteristics that support this conclusion. First, the resistance helps to expose the illegal acts of law enforcers. Chapter 3 introduces cases that involve a cadre’s embezzlement and a working team’s bribery. Due to the peasant petition and their operation of capital, these officials’ illegal acts were exposed. Second, irregularities in the course of law enforcement have also been monitored and regulated because of rural resistance. This situation is usually resolved within the hierarchical system.

The following interview shows that an official within a township government is administratively punished because he provides excessive convenience. In case 13, the deputy head does not accept a bribe, but provides more compensation in order to demolish houses quickly. According to the interviewee, also an official, this kind of practice is accepted by the town government because it is well-known that the demolition work is difficult: “if such a capable official is removed from office just
because of this sort of issue, then nobody would want to participate in house demolition work!” However, peasants who do not get the same additional compensation regard this practice as unfair, so they continuously make trouble, ask for “equal treatment,” and disgrace the official’s name by spreading rumors. Finally, as a response, the town government had to change the official’s job. During the punishment, peasant resistance played an important role because their struggles magnify the official’s improper actions and attract the attention of upper government officials. The punishment is beneficial because it prompts government officers to obey the rule to achieve consistency in policy implementation.

Case 12:
Leader of the demolition team: The Jiu Long township government has punished some officials for demolition, removing a deputy head from office. The deputy head, Tang, a very capable official, personally took the lead in land demolition. Besides demolition work, Tang usually provides effective legal services to peasants. What makes him go wrong is giving too many benefits to peasants so as to stimulate upward comparison and trouble-making. Finally, he went to the agricultural machinery bureau, as a deputy director. His job change was a lateral move; the same administrative level, but much less power. (Interviewee, Yang, July 2015)

6.5 CHAPTER SUMMARY AND DISCUSSION

This chapter aims to illustrate the meaning of the boundary-treading resistance concept through empirical fieldwork materials. As it relates to this research broadly, the concept is proposed to examine the realization of composite property rights. Meanwhile, we
also wanted to contribute to rural resistance research. The following part will briefly discuss two points: the importance of boundary-treading resistance in realizing composite property rights and its theoretical value to rural resistance research.

**6.5.1 Boundary-treading resistance helps realize composite property rights**

Land expropriation is the process of transferring rural land property rights from peasants and the collective to the state in exchange for compensation. The transference illustrates the nature of property rights. In the eyes of government, property rights are a bundle of rights and changes in property right subjects is realized by implementing a series of specific policies and regulations. Using the economic attribute of property rights as a reference, the government develops the land expropriation policy. However, boundary-treading resistance follows a different logic of property rights. Based on disputes between the perception of land rights and the land law of the state, peasant resistance constantly challenges the boundary of policy, law, and custom by making flexible use of various means.

A composite property right means peasants use their various capitals to charge the property rights transformation from economic capital to an economic property right. Two characteristics contribute this process: (1) peasants’ capital structure and (2) peasants’ ability to operate these capitals. Under a certain capital structure, boundary-treading resistance specifically discusses peasants’ capital operation and resistance strategies. All these different resistance strategies mentioned in this chapter break through policy boundaries and practically implement different attributes of land rights such as cultural, social, and symbolic attributes. By constantly breaking through
the economic attributes, boundary-treading resistance introduces more property right attributes into the process of rural land right transfer, expounding on and proving the existence of composite property rights in practice.

6.5.2 Boundary-treading resistance responds to the Legitimacy Dilemma

As Ying Xing (2007) says, “the main problem of interest expression activity in China is the legitimacy dilemma. As an antagonistic political action, this activity has a greater negative impact on local social order.”

Boundary-treading resistance responds to the legitimacy dilemma in two ways. First, peasants construct their rationale of resistance by (1) applying their simple and plain sense of fairness as they resent the unexpected and unfair results of government policy, and (2) introducing perceptual factors, such as their beliefs regarding ownership and the incremental value of rural land. Through this rationale construction they distinguish between local knowledge and the state laws of land rights. Second, their resistance strategies are sophisticated. For example, in terms of the relation with local government officials and developers, they probe the loopholes, citing the government’s or the developer’s fault as their reason to cross the boundary of law, policy, and rule. This response mechanism to the legitimacy dilemma establishes a positive outcome, even in certain instances in which the peasants’ resistance strategy was tactless. Nonetheless, this response mechanism also has its own fatal flaw: once the parties take their dispute into a courtroom, it is less likely for peasants to win a lawsuit.
Boundary-treading resistance presents the other side of rural protest. When China’s land system and local land expropriation policy are both so disadvantageous that there exist few peasant-friendly laws and regulations through which peasants can conduct a “rightful resistance,” and when the “legitimate interest” or “civil rights” emphasized by the “struggle by law” obviously has no political legitimacy, how do peasants resist to express their ideas and safeguard their own rights and interests? Rural resistance in C County examines different resistance efforts, i.e., they fight state laws with their local knowledge of property rights, or dissolving the “one size for all” policy for various group interests. Therefore, by making use of their righteous indignation stimulated by unfair policy and upward comparison arising from the implementation of that unfair policy, they construct a rationale of resistance, and, through it, can continually challenge boundaries to seek benefits.
CHAPTER 7 WOMEN’S LAND RIGHTS: MEMBERSHIP AND THEIR STRUGGLE

7.1 INTRODUCTION

By examining the struggles that women endure to become members of rural collective economic organizations, this chapter uses the boundary-treading resistance concept to analyze the relationship between villagers and the village collective in land expropriation. The research focuses on the perspective of membership, how do women and women-related individuals gain and lose their land rights and interests? In regard to membership in rural collective economic organizations, there are two logics, the state logic and the local logic; the former refers to law-based villager membership and the latter is about family membership based on majority vote of the villagers’ committee. This chapter argues that due to the inconformity of the two logics, the definition of women’s membership is also determined by the parties’ resistance. To support this idea, this chapter chooses four categories women and women-related individuals—out-married daughter, stepchildren, uxorilocal son-in-law, and adopted daughter—to discuss their boundary-treading resistance strategies. Finally we conclude that cooperation and confrontation characterize the relationship between villager and village collective in land expropriation.

This chapter has five parts. Part one asks, as background, why women’s membership in the collective is problematic. Then part two provides two membership logics, state logic and local logic, for conceptual and general analysis. Part 3 analyzes the microscopic factors from the fieldwork. Following the research question and
theoretical framework, part four empirically analyzes the four categories of women and women-related individuals, and part five presents a brief conclusion and discussion.

7.2 BACKGROUND: WHY WOMEN'S MEMBERSHIP IS PROBLEMATIC?

Before introducing the background, it is necessary to explain two questions, why I discuss women’s land rights and what is the relation between this chapter and the previous ones.

First, Recent researches into the gender distributive outcomes of rural property reforms offer few grounds for optimism: women’s rights in a wide range of assets have been eroded (Dong et al. 2004; Li et al. 2006; Yan et al. 2005; Yang and Xi 2006). But while much critical attention in China has focused on the infringement of villagers’ property rights during expropriation, there has been a surprising silence about its gender impacts (Sargeson 2008). So, it is necessary to take care of women’s land rights in this research.

Second, this research, tries to explain peasants’ resistance against low land expropriation compensation, will be incomplete if not to discuss women’s land rights because (1) different from other villagers mentioned in the previous chapters, women, as a group, have their own special obstacle to get compensation, village membership; and (2) the two new concepts based on C County’s resistance of course should be examined by women group.
In the previous chapters, our discussions, which focus mainly on how peasants receive more land expropriation compensation, do not involve the following two questions: 1) who owns rural land? and 2) who ought to get land expropriation compensation? However, in practice, some special individuals must constantly strive for their villager identity; some of those individuals discussed in this chapter are women and women-related individuals.

Why is it problematic for these individuals to become members? According to China’s land laws, rural lands are “collectively owned by peasants” (Article 8 of The Law of Land Administration) and are “operated and managed by village collective economic organizations or villagers’ committee,” (Article 10 of The Law of Land Administration), while “land compensation fees go to the rural collective economic organization” (Article 26 of Regulations on the Implementation of the Land Administration Law). Thus, legally speaking rural lands belong to the village collective and the members of the rural collective ought to receive land expropriation compensation. If the above mentioned individuals are not confirmed as members of the village collective, they would not receive land expropriation compensation.

What exactly is the rural collective economic organization (RCEO)? Are there some particular difficulties in confirming the membership of women and women-related individuals?

Arising out of the Agricultural Cooperative Movement from 1953 to 1957, the RCEO underwent three different historical development periods. In its voluntary co-operation period, it directly aimed at raising agricultural production levels and organizing
cooperative production; accordingly, its membership was based on private agricultural land. In the People's Commune period, the RCEO and its membership completely dwindled. Membership within two different organizations, the RCEO and the rural community organization, were highly integrated, forming an integrative system pattern with commune management and government administration (zheng she he yi). In the Household-Contract Responsibility System period, people’s commune membership was revoked. The land and other means of production that previously belonged to the commune, brigade, and production team, were separately transferred to and owned by newly-established township collectives, village collectives, and villager group collectives. Thus far, the RCEO was replaced by a township (town)-village-village group co-existing organization. After that, a grassroots level organization of self-government, called the village committee, was set up at the village level (Shi 2016; Zhang and Gao 2008; Du 2015; Liu 2011). To summarize, the RCEO is a rural property community that existed during a certain historical stage.

Due to the constant changes of RCEO, its member exchange, such as the mobility in and out of the village—especially in the cases of marriage, divorce, birth, death, and perhaps out-migration, created a membership definition question. In recent years, land expropriation and its compensation amplified this membership definition issue because more and more “unidentified” members returned to ask for land rights and interests. The membership problem for women and women-related individual discussed in this chapter arises under these circumstances.
7.3 TWO LOGICS OF RURAL COLLECTIVE ECONOMIC ORGANIZATION MEMBERSHIP

From a membership perspective, the women and women-related individuals’ land rights and interests question can be interpreted as: how is women’s membership defined in RCEO? To answer this question, there are two logics, the state logic and the local logic. These logics will be introduced below.

7.3.1 The state logic of membership

Firstly, even though many laws refer to RCEO, no law has defined its membership. When drafting the Explanation on Several Questions of Law Application in Rural Contracted Land Disputes (guanyu shenli sheji nongcun tudi chengbao jiufen anjian shiyong falv wenti de jieshi), the supreme people's court once tried to create a clear definition of it, but ultimately gave up. Its official explanation was that “the power of legal interpretation of RCEOM belongs to the National People's Congress (NPC) Standing Committee. Such a major issue is inadvisable to be stipulated by judicial interpretation.”13 However, as of now, the NPC Standing Committee has not provided a legislative interpretation to describe any relevant standards or stipulations.

Secondly, with respect to this issue, several provincial policies and regulations have suggested standards as seen below.

13 Head of the supreme people's court answers to reporters' request for Supreme People's Court’s judicial interpretation on the legal issues concerning the trial of disputes involving rural land contract.
First, huji cannot be a single standard. Registering huji in a village can result in being treated as a villager, but may not be considered a RECO member, like a “hanging household” (kong gua hu). However, not registering huji in a village does not always result in a disqualification. Evidence of the latter situation comes from the 26th article of Rural Land Contract Law.

If during the term of contract, the whole family of the contractor moves into a small town and settles down there, the right of the contractor to land contractual management shall, in accordance with the contractor's wishes, be reserved, or the contractor shall be allowed to circulate the said right according to law.

Through this provision, the state wants to weaken the huji concept and strengthen its security function. So, when defining RECOM, the huji standard is certainly crucial, but it is not the only standard available.

Second, what options other than huji standard are available? Several provincial policies and regulations provide answers. The documents we collected from 15 provinces, without exception, regard huji as a condition. Except two direct-controlled municipalities (Tianjin and Chongqing), which simultaneously consider three conditions, i.e., huji, living in the RECO, and relying on the RECO land as basic life security, all the rest adopt a single standard based on huji, which means under the condition of having huji, to be a RECO member, one only needs to meet one of the following three conditions: (1) through birth, marriage, or adoption, (2) as one of a special group, like someone released from prison or prisoners, servicemen, college

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students, and policy-based immigrants, (3) through a two-thirds vote of existing RECO members. These provincial policies and regulations can provide specific instructions for local courts.

Third, and more specifically, local courts provide two approaches in practice: original obtainment (yuan shi qu de) and statutory obtainment (fa ding qu de). Original obtainment refers to a member of a community organization for economic cooperation (shequ xing hezuo jingji zuzhi chengyuan), which is transformed from an original agricultural production team or brigade, and whose huji has been retained in that RCEO all the time. Statutory obtainment means one’s parent is a member of a RCEO and the parent’s huji is retained in the RCEO, including those who move huji into the location of the RCEO due to legal marriage or legal adoption and huji-moved by migrations due to nation-building or other policy reasons. The approaches can be judged by the court.

By providing clear and open instructions regarding special groups, these provincial regulations are women-friendly. “However, its premise is that government has enough rationality, information, and administrative capacity to affirm the membership” (Zhang et al. 2014).

7.3.2 The local logic of membership

As some provincial regulations have claimed “voted through by two-thirds existing RECO members,” means that RECO membership definition is embedded in the social network of community. Once accepted by a village, one can be a RECO member and enjoy related rights of the collective property. The local logic closely relates to “family
membership” and clan culture and forms standards of RECO membership recognized by the village.

Some existing studies specifically reveal these standards below.

First, family membership takes precedence over village membership. For example, “Having huji is not enough to get the use right of housing land, while being a son of the village is enough. The son, even though having no huji of the village, can still own the use right of housing land” (Gao 2007). Similarly, Zhang Minghui’s (2014) research in Hunan province found that the acknowledgment of the rural tradition “one of us in our village” can break through the huji standard.

Second, differential treatment exists between men and women as well as outsiders and insiders. For example, Gao Yongping sums up three ways of acquiring a villager identity in a village of Hebei province: through birth, marriage, and adoption. “Either way, to obtain village membership, one must relate with a male villager. Only a man can be the source of a new membership” (Gao 2007). “To own housing estates in a village, an outsider must firstly get membership through adoption or as a son-in-law by adoption or marriage” (Zhang 2006). Furthermore, in Zhang Peiguo’s (2002) research about the relation between cunji and land rights found that in early modern times, To become a village member through marriage, one firstly becomes a family member, and then gets recognized as ‘one of the villagers’; of course, this occurs together with gender difference. A woman marries into a village, regarded as a family member within the family culture, and gets membership on the wedding-day; to get membership through son-in-law by adoption, a man has a long way to go. . . . marriage and quasi
kinship are the main approaches to get cunji, but before that, one must try to get recognition from family members, which is really a fairly hard process.

Third, there are multiple factors that affect the standards. These factors include the acknowledgment of rural tradition, investment in social relationships (Zhang 2014), the state logic, village rules, and cultural habits (Shi 2016). Zhang Peiguo’s (2006) research, based on civil lawsuit files in the 1980s, in Shandong province, resulted in similar findings, “the relation between the concepts of family wealth and the rights of village-crew members should put into the legal practice of peasants’ everyday life to make a historical-cultural explanation.”

Specifically, these traditional ideas about women’s membership can take effect by applying obtainment (shen qing qu de) in the name of villager self-governance. Applying obtainment is an approach that complies with stipulations of laws and regulations, applied for by an applicant and obtained through a democratic negotiation procedure. Obtainment is generally determined by the village collective, but courts can correct the decision, if it violates laws or policy regulations.

In sum, state logic, based mainly on huji, defines membership for different groups in an open-minded way, and is beneficial for women in protecting their land rights; while local logic, using patriarchy, rural tradition, and social identity as standards, sets strict limits on the membership definition of special groups resulting in gender inequality and the differentiation between insiders and outsiders. Thus, local logic is unsupportive of women’s land rights.
7.4 MEMBERSHIP OF RCEO AND THE RELATION BETWEEN VILLAGER AND THE VILLAGE COLLECTIVE

Logic inconformity, as described above, provides a conceptual and general analysis of membership definitions at a macro level, while the relation between villager (and villager’s household) and the village collective sets a specific field within which we can understand women’s action in this chapter. This part will analyze the microscopic factors that affect the membership definition of RECO.

In C County, the compensation policy is based on RECO membership, but different benefit compensation mechanisms of land acquisition and house demolition make the relationships between a woman’s mother(-in-law)’s family and village collective more complicated. This complicated relationship provides opportunities for women.

7.4.1 Zero-sum game and positive-sum game between villagers and the village collective

In C County, the benefit compensation mechanism of land acquisition is different from house demolition.

Article 9 (part) compensation fee of cultivated land, compensation fee, and resettlement fee of other land should be paid directly to land-expropriated village group. Then the group reduces labor force unemployment insurance and pays the remaining part of collective after using, in accordance with relevant provisions…The use and management of land compensation and resettlement management should be transparent and public to all villagers (Government policy 2013).
According to the above 2013 regulation, the compensation fee for collective land acquisition should be paid to and is distributed by the village group, thus the group holds group meetings to determine the allocation plan through village self-governance. Since all the compensation fee is distributed evenly to all group members in C County, the fewer the RECO members, the more compensation each member receives. Therefore, the group is motivated to exclude married women’s sharing in the name of the collective.

Article 24 (part) In city (town) planning, the area of land expropriation relates to housing demolition, while the government provides housing resettlement or currency resettlement…the construction standards of basic housing area is calculated by 35 m² per person (including shared area).

…

For a family of removed household to enjoy the basic housing construction area, they must meet the following conditions: 1. They must be a member of RCEO; 2. They must be holders of legal procedures for registration of persons belonging to the household; 3. They must live in demolished-house as long-term residence of family (Government policy 2013).

However, according to the regulation of demolition compensation in the same policy, demolished-house families can enjoy housing resettlement based on the population of a family. Therefore, the more members in a family, the more demolition-compensation they can get. As a result, peasant families are not willing to refuse married women’s application of becoming a RECO member.
Such a regulation increases disagreements between the collective and individual peasant families. Specifically, in terms of distribution of the collective land acquisition, there exists a zero-sum game relation between married women and the village collective. Regarding house demolition compensation, it is a positive-sum game relation between married women and their mother’s family. Since house demolition compensation comes from the state, (in the concept of “it comes from the state, why would we refuse them?”) both the collective and the individual family are not willing to refuse the return of married women. However, the distribution of land acquisition compensation only applies to the collective; thus, preventing “outsiders” from this compensation distribution in accord with collective’s effort to maximize its benefit. These differences of opinion provide an opportunity for women to pursue RECO membership.

7.4.2 The relation between married women and their mother’s family is not conflicting

To understand this point, it is necessary to analyze a married woman’s family life as a land-loss peasant in C County.

First, after land expropriation, land-lost peasants move into resettlement residential areas. In this “Village-to-Community” (cun gai ju) process, the function of former villagers committee’s gradually weakens, and the previously tight-knit connections between villagers may be reduced because they live separately and because of disputes over the land expropriation process (mentioned in chapter 5). At this point, facing
significantly different lives, these new citizens need emotional support and mutual economic aid from family members.

Second, after land expropriation, many households can get several houses. Then, realistic problems arise, like getting and paying for furnishings for the new houses. Often times, elderly people willingly give their adult children housing, or sell housing to them at reduced costs, and, in return, ask for their children’s help to decorate their own house or to provide everyday care. This is a common and reasonable practice in small and underdeveloped county towns in mainland like in C County.

In these situations, married women usually adopt strategic actions, mostly supported by their family members, to pursue membership as follows: (1) not marrying out, or marrying an uxorilocal son-in-law, and then registering the household for their husband and kids; (2) marrying out, but not moving out their huji; and (3) delaying marriage.

Despite all these, the opportunities provided by policies is not enough, and making in order to make use of them and gain real benefits there must be full cooperation between married women and their mother(-in-law)’s family. Next, we will specifically illustrate the actions of married women’s used to pursue RECO membership.

7.5 WOMEN’S STRIVING FOR MEMBERSHIP

This chapter aims to use the boundary-treading resistance concept to analyze women and women-related individuals’ efforts to gain RECO membership. Our research initially focuses on out-married women’s land rights, which is a conventional topic;
however, during our fieldwork, we found two additional categories of women-related individuals’ land rights that center on the disputes of villager and the village collective: stepchildren (related to remarried women) and live-in son-in-law (related to married women). At the same time, lots of interviewees shared a particular strategy of increasing the family’s population by adopting a daughter. Therefore, we choose these four categories of women and women-related individuals with our analysis focusing mainly on their action strategies.

7.5.1 Out-married women’s membership

According to state logic, if during the term of contract, the whole family of the contractor moves into a small town and settles down there, the right of the contractor to land contractual management shall, in accordance with the contractor’s wishes, be reserved, or the contractor shall be allowed to circulate the said right according to law (Article 26 of Law of the People's Republic of China on Land Contract in Rural Areas).

The expression here, “in accordance with the contractor's wishes,” means in practice they can enjoy a flexible opportunity to register their huji circumstantially. However, from local logic, “a married out daughter is like spilt water”; once married their identity transforms from a daughter of her mother’s family to a daughter-in-law of her mother-in-law’s family. Thus, from then on, she is an outsider of the family or the village. Here, we focus on that challenge and the opportunities provided by the conflict of above two logics—asking, how do they achieve membership and protect their land rights?
Case 1:
The key point of the case: Li Shilan, born in July 1971 in 3rd group of Chang Shengou village, married into Lu Miao village, Henan province in 1990. She has settled more than twenty years in Lu Miao village, is allocated with contracted land, and formed a relatively fixed production and living conditions, which made her a RCEO member of Lu Miao village, with her fulfilling obligations as well as enjoying all kinds of subsidies. In January 2009, part of the land of 3rd group of Chang Shengou village was expropriated by government. When the land was expropriated, Li Shilan’s household was in the 3rd group of village. In 2011, compensation allocation was discussed by the group and two allocation plans were formed. Some of the villagers think that because Li Shilan married into another place for many years that she is not a RCEO member of the group. Thus, Li Shilan’s name is not on the list of allocation plan, and therefore she does not get pension insurance fees and land compensation. In June 2013, Li Shilan sues, taking the dispute to court, requesting for Chang Shengou village to pay land compensation and resettlement compensation, total 25,512 yuan. The first judgment: When the 3rd group of Chang Shengou village’s land is expropriated, Li Shilan’s household registration is in the group, and in March 2011, the villagers’ meeting shows that Li Shilan belongs to "household population of 181 people” in one of the plans, namely, the villagers' meeting has identified the fact Li Shilan enjoys distribution qualifications, so Li Shilan should enjoy land compensation and resettlement compensation like other members of the collective economic organization. The second judgment: Li Shilan married in 1990, and registered a new household in her husband’s village, called “Li Silan.” Therefore, Li Shilan has two household registrations in the names of “Li Shilan” and “Li Silan” separately, and enjoys
contracted land in the Lu Miao village, Henan Province. Hence, Li Shilan, who actually formed a relationship with rights and obligations of Lu Miao village, should not participate in enjoying the land acquisition compensation of 3rd group of Chang Shengou village. (court file from openLaw.cn, April 2014)

The case tells us the following story: Nineteen years before land expropriation, Li Shilan married out and registered her household in her mother-in-law’s family in the name, Li Silan, as she was a de facto RCEO member of her husband’s family. Therefore, she has households in both her mother’s family and mother-in-law’s family with two different names. Upon learning of land expropriation in her mother’s family, she, based on her household of mother’s family, asked for land expropriation compensation like other members. Her appeal was supported by the verdict of the first trial. However, after an in-depth investigation, the fact that she has a “one person with two households” (yi ren liang hu) status was exposed and her appeal was refused by the court of second instance.

As analyzed above, registering huji “in accordance with the contractor's wishes” by law provides a room for out-married women. If they do not move their household out once they marry, according to the state law, out-married women still belong to the RCEO, retaining membership through original obtainment. Taking full advantage of this opportunity, out-married women can skillfully move their huji into one of their two families, even two families like the situation in case 1. With out-married women using conveniences provided by the state law, this “one person with two households” situation is a result of the loophole of state logic. As we mentioned above, “its (the state
logic’s) premise is that government has enough rationality, information, and administrative capacity to check the membership.”

This kind of loophole of household management can be seen from the following interview.

Police investigators: The most troublesome thing is related to out-married women or when someone goes out. This situation is difficult to manage. If she comes back and says I did not register the household outside, you cannot put her household down. Under this circumstance, we are going to investigate her; if true, this easy to deal with. Okay, we can get there to check. But if the information she provides is false, we have no way to determine the truth; since her final goal is to prove she has no account there, the answer is certainly not. It is very difficult. I have personally experienced such a case. She was in Xinjiang and the household management in Xinjiang is quite chaotic, especially in the recent 10 years. At that time, as long as you have been there and have a proper occupation, it (the local police station) could . . . register for you and the household in home can also work. In 2013, a mother and that daughter came back, daughter at the age around 20, parent around 40. She (the daughter) came home and said she had no account. Then I estimated their situation—it should have been in the street. I guessed it would involve land acquisition in the future. We asked where she is, fortunately, she told the truth that she is in one district of Xinjiang, where she worked as perennial migrant worker. I do not remember clearly. I told her that we need the long term residence of police station to prove that you have no registered residence. She gave us a specific address and we called to verify. The first time we investigated that she really had no account. Then we checked it online; after (knowing) her name
changed, finally we found two accounts. She changed her name in Xinjiang, but the birth date was not changed. In that way we compared it, then checked it out. This situation was very complex... (Interviewee, Su, July 2015)

The above interview confirms the loophole that is created when local household management is not in a national network. Although in case 1 and the above interview the parties’ strategies failed, their actions show that the open-ended definition of out-married women’s membership and discretionary power of courts sometimes lead to women’s exploration of loopholes in state logic to receive something that they are not entitled to.

Besides probing the loophole of the state laws, out-married women can use social networks in the community to strive for membership.

Interviewer: If they are planning to come back and ask for huji, how do married women do?

Yang (peasant): That is the official’s business. Depending on your relations with the production team, the village head, and the secretary of party, if you are not familiar with them and have no relatives, they are not obliged to do favors for you. You are bound to have a house with 35 m², and the officials of the brigade will not put in a good word for you if you do not send this (money gestures) to them, as a result, the price is at least up to 2500 instead of 900 as it should be. (Interviewee, Yang, July 2015)

The above interview shows another situation: if out-married women want to move their huji back to the mother’s village, how can they do this? Under this circumstance, their
approach to attain membership should be to apply for obtainment, and, in this process, the cadre’s role is critical. As the collective’s leader, a cadre’s duty is to protect collective interest from being infringed; however, the cadre is also a member of rural society whose action is affected by rural environmental factors. So, the cadre’s status can provide out-married women with an opportunity so that they can take full advantage of their own (or their family’s) social capital to get support in their membership application. Specifically, as the interviewee says, (1) if an out-married woman is one of the relatives of cadres, there is a strong tie, and the cadre would likely help her by providing conveniences for her applying huji and putting in a good word (shuo hao hua) for her with the government officer in order to get a discount price; and (2) if the relationship is not a strong tie, but a weak tie, the party could ask for the cadre’s help by sending gifts and money.

7.5.2 Stepchildren’s membership

Stepchildren’s membership refers to remarried women’s interest, and it usually causes serious disputes over land expropriation; thus, as women-related individuals, their membership is a matter worthy of attention.

According to state logic, stepchildren get their membership through statutory obtainment. So, as long as their application and proof materials contain all the required components, their moving huji can be easily completed by the local police station, without being determined by the villagers’ committee. However, within local logic, stepchildren, as outsiders of the village and consanguinity, their application for membership is difficult to accept. Since application acceptance is decided by village
rules-majority vote, the membership application would apply the obtainment approach. Therefore, the conflict between the two logics provides opportunities for parties’ actions.

Case 2:
Key point of the case: Zhou Yuan’s mother, Tang Xingchun, remarried Zhou Shaofu, a commune member of the 3rd group of Pengyan village. After marriage, Zhou Yuan and her mother have been living with her stepfather’s (Zhou Shaofu) family and have formed a dependent foster relationship. In December 2008, Zhou Yuan’s huji is moved from the 5th group of Chao Zhai village to the 3rd group of Pengyan village, and her basic means of production and living source is based on family contracted land. In June 2012, Pengyan village’s collective land is expropriated, but the village deprives Zhou Yuan of her land compensation of 7,401 yuan. The reason is that Zhou Yuan is a stepdaughter of the group member Zhou Shaofu, so villagers do not approve of her huji and only recognize one huji of two children in Zhou Shaofu family.

The first and the second judgment: Due to her mother’s marriage, Zhou Yuan moves her huji into the 3rd group of Peng Yan village, gets a legal huji, lives in the group, and has a close connection with family contracted land, so she should enjoy the right of distribution of land expropriation compensation and resettlement fees.

(court file from openLaw.cn, June 2014)

Case 3:
Key point of the case: In March 2011, Liang Guhua’s mother, Chen Zhaolan, remarried Tang Dai’an, one of the 6th group members of Jiangyan village. In April 2011, Tang Dai’an and Chen Zhaolan issued a letter of commitment, that stated
In terms of moving huji of Liang Guhua, the son of Chen Zhaolan, the wife of Tang Dai’an, a member of the 6th group of Jiangyan village, I (Liang Guhua) voluntarily make the commitment that in land acquisition process, I shall only enjoy national treatment, and will not . . . participate in any distribution of collective land of production team. With my whole heart I make the commitment. Promisors are Tang Dai’an and Chen Zhaolan, with their signing and thumb-printing.

In May 2011, the huji of Liang Guhua and his mother, Chen Zhaolan, are moved from the Guangxi Zhuang Autonomous Region to the 6th group of Jiangyan village. Liang Guhua has not lived in Jiangyan Village; when they migrated, the 16-year-old attained his main living source through his own labor income.

In September 2011, all 231 mu land of the 6th group is expropriated, with 171 people (including Liang) transformed from agricultural to non-agricultural status. In April and May 2012, after two meetings, the group forms a distributional plan. The plan refuses to assign land compensation to six people (including Liang), reserving 300,000 yuan for dissent after a court ruling reallocation. Tang Dai’an signs the agreement in the distribution plan. Although he did not enjoy land compensation, Liang Guhua gained resettlement subsidies and housing placement.

(In the second instance) Liang Guhua claimed that he is a person with limited capacity for civil conduct. he stated that he did not authorize Tang Dai’an and Chen Zhaolan to make a commitment to give up land compensation fee, and that making it in their own name, Tang and Chen’s were illegitimately acting as agents, and therefore, the commitment is not legally binding on him.

The first and the second judgment: When his mother remarried, Liang Guhua was over 16 years old and worked with his own labor income as his main source of life, so he should be regarded as a person with full capacity for civil conduct. Thus, it is not
required for him to move huji into the 6th group. Liang’s huji is moved from Guangxi to the group. All relevant procedures are made by Chen Zhaolan and Tang Dai’an; the group had no fault. There is no doubt to believe that Chen Zhaolan and Tang Dai’an have the right to agent all things of Liang Guhua, and Liang Guhua should be informed by Chen and Tang’s behavior with respect to the commitment letter. Thus Chen and Tang’s written promise to give up land demolition shall be legally binding.

Moreover, taking the facts into account that Liang Guhua does not live in the 6th group, and that the group villagers do not assign to Liang Guhua land compensation through democratic procedures determined by a written commitment, Tang Dai’an’s signature shall be deemed as admitted by Liang Guhua and as having no objection to the distribution issue. Liang Guhua's appeal has no legal basis and is not supported by the courts. (court file from openLaw.cn, October 2014)

Local logic is unfriendly toward stepchildren’s membership applications—as can be seen from the straightforward statement in case 2. First, the group does not recognize the plaintiff’s huji just because of her step daughter’s identity. Moreover, in terms of moving huji into the village, the plaintiff must apply for obtainment while her half-sister has original obtainment. However, the courts of first and second instance correct the defendant’s wrong doing and recognize the plaintiff’s membership according to (1) legally getting huji, (2) relying on household contract land as a basic means of production and the source of life, and (3) living in the group and having close connection with the contracted land.

Attaining membership by applying for obtainment is a key factor for stepchildren’s land right infringement because local logic, in the name of villagers’ autonomy, exerts
influence on membership application. As a result, applicants have to give up partial land compensation like the situation in case 3. As the case shows, on appeal, the court of first instance approved the binding force of the plaintiff’s mother and stepfather’s commitment according to article 49 of Contract Law. In the second instance, Liang Guhua appealed that he is a person with limited capacity for civil conduct and did not authorize his parents to sign the commitment letter. Referring to a similar legal basis as in case 2, the court refused Liang’s appeal.

As is seen in the above two cases, the infringement of stepchildren’s land rights relies on the specific approach of membership obtainment. This approach, in the perspective of state logic, is statutory obtainment; while in local logic, the approach is applying for obtainment. Under this logic contradiction, the parties’ action strategy is critical.

Specifically, in case 2, two strategies contribute the party’s success. First, the illegal reason for which the village refused the party, i.e., the fact that the party was a stepchild, put the village in a defensive position in court. Second, the party took advantage of the state logic’s priority over local logic, and provided corresponding evidence to support her appeal. This was a typical case to demonstrate how women-related individuals gain land rights and interests; while case 3 shows how the party lost rights and interests. In case 3, the party failed for at least three reasons. First, they did not choose the right time to move huji back—four months before land expropriation was a very sensitive period.

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15 Contract by person with apparent agency authority where the person lacking agency authority, acting beyond his agency authority, or whose agency authority was extinguished concluded a contract in the name of the principal, if it was reasonable for the other party to believe that the person performing the act had agency authority, such act of agency is valid.
Second, they left evidence against themselves, in particular, the written commitment letter. Third, the party did not live in the group.

As for case 3, the combination of making such a commitment against a party’s will and Liang’s membership obtainment creates a new practical approach, contractual obtainment (xie yi qu de). This approach means that when adopting an outsider as its member, the village asks the applicant to promise to give up part of his or her treatment as a villager (cun min dai yu), or they will refuse the application. For example, in case 3, Liang gave up land compensation (from the collective), but enjoyed resettlement fees and housing placement (from the state). Choosing contractual obtainment to enter a village and receive only partial land right and interest is also more practical for some special individuals, and may be the outcome of their strategic action. Under these circumstances, the party’s strategies include two steps. First, through relationship or money, or promising not to get collective interest, their application is passed by their villagers’ committee and the party gets formal membership. Second, by going to court, they ask for the court to overturn the distribution plan made by the collective and get land compensation that they previously promised to give up. The final outcome in court is highly conditional.

7.5.3 The membership of uxorilocal son-in-law

Judging from the statement “Not enjoying land compensation, Liang Guhua gains resettlement subsidies and housing placement” in court document, Liang Guhua’s membership is valid.
Closely related to married women’s land rights, the membership of the uxorilocal son-in-law deserves consideration. According to article 9\(^{17}\) of Marriage Law, uxorilocal son-in-law can become a member of his wife’s family, so his land right is the same as a daughter-in-law. However, local logic has a conventional stipulation; like in some villages, only one daughter can make uxorilocal marriage if a family only has daughters. Of course, with rapid development, these kinds of customs take on a variety of forms. The difference between state logic and local logic leads to contradictions and disputes in terms of uxorilocal son-in-law’s land rights.

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Case 4:

Key point of the case: on February 10, 2012, the plaintiff, Jing Xiaoshu, and Li Tingzhen, a woman of the Bao’an village (the defendant), apply for marriage registration. The plaintiff, Jing Moumou, is a daughter of Li Tingzhen and Jing Xiaoshu. On February 29, 2012, the two plaintiffs moved their huji from Wulizi village to the defendant’s village, becoming members of the village, with Li Tingzhen owning contracted land in the village.

The defendant’s land is expropriated twice; once in August 2012, and again in October 2012. In August 2014, the defendant holds village meetings and publishes the lists of the household population and the distribution population of the group separately. The two plaintiffs’ names are on the former list only. Accordingly, they were not allocated any land acquisition compensation.

The court judgment: Before the announcement of land requisition compensation six months ago, the two plaintiffs, as husband and daughter of the defendant villager,

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\(^{17}\) Article 9 after a marriage has been registered, the woman may become a member of the man’s family or vice versa, depending on the agreed wishes of the two parties.
moved their households to the group, which is in accordance with laws and regulations (not belonging to illegal immigration and having membership). Since the two plaintiffs (Jing Xiaoshu and Jing Moumou) are members of the defendant, they should enjoy the right to allocation of land compensation fee by law. Getting huji before the announcement of land requisition, the two plaintiffs, as members of the agricultural resident population, get their main living sources from contractual land in the name of their wife and mother. Although they have no contracted land, they enjoy contract rights of the defendant’s land as they belong to the distribution population that enjoys the right of allocation resettlement fees in accordance with the law. Having not attained contracted land, the two plaintiffs should not enjoy that particular attachment compensation. (court file from openLaw.cn, May 2015)

Judging from membership obtainment, the uxorilocal son-in-law and his child can get their membership through statutory and original obtainment separately; however, in from the villagers’ perspective, they should use the application method for obtainment.

Although in conflict with the law, local logic can also find evidence to support its idea, hiding its discrimination in legitimate reasons. For example, in case 4, the village refuses the two plaintiffs’ membership application based on four seemingly legitimate reasons. First, the village did not agree to the plaintiffs’ move into the village, so it is a non-normal issue. Second, they moved into the village after the announcement of the resettlement compensation plan approved by government. Third, they did not build a fixed connection with the village in terms of production and living as they did not even live in the village after their migration, did not have any contractual land, and did not perform any obligations. Fourth, it is the village meeting that decides not to distribute
settlement fees. So, obviously, the village tried to refuse the uxorilocal son-in-law and his child’s land rights according to de facto membership by requiring that they submit applications for obtainment. This kind of litigation statement seems very plausible. In contrast, the court affirmed that the two plaintiff’s huji registration, finding they to be legal, and admitted their land rights due to their obtaining households, relying on the family contractual land as a main living source, and being a member of the resident agricultural population. Thus, the village’s decision was overturned by the court.

Thusly, in terms of the uxorilocal son-in-law’s membership obtainment, jurisprudential evidence is clear, but traditional folk customs act as barriers. To pursue land interests, the uxorilocal son-in-law can take full advantage of the cadres’ role.

Interviewer: How about live-in son-in-law’s getting land?
Yang (peasant): Yes, like that, his family just has one girl. For example, marrying out, they should be out-married, but they bring a son-in-law to their family. A woman marries into man’s family, or vice versa. These are allowed by policy. Why they cannot do that and make money? They deserve to get that. For example, there are two girls in a home; the first girl recruits one husband, and so does the second girl. The cadres know how to operate it. It is one of the few things. If you really stop them, for example, that family with two girls and two recruited husbands, you will offend not only the young couple, but also the cadres, so the two sides are offended by you, which is unworthy. Furthermore, their family members will reason with you like that there are hundreds of people in the team, and only you try to pull me down; in so doing, how much money you can get? One penny? So, do not say and we continue to be friendly. Exactly, in our team, more than 300 people, and compensation fee is 14,000 yuan per mu; you just lost
several yuan if adding one people. So, do not go for a farce, otherwise you will offend others. Young people do not like you, also the old hate you. The cadres hate you too. It seems you have done a bad thing. (Why the officials hate?) He takes him home. Would he let you come if you do not give him red envelope? It also needs some wine fees, right? That is familiar to all. You will offend the cadre as well as the family. Thus it is generally not to say. (Interviewee, Yang, July, 2015)

As shown in the interview, there indeed exists opportunities for live-in son-in-laws to attempt to obtain certain land rights. First, some peasants, like the interviewee Yang, understand state laws and local customs, and the cadres also understand that the live-in son-in-law’s application for membership is legal. Second, under the inconformity of the law and customs, the cadres’ role is critical. So the live-in son-in-law and his family can apply their capitals, like relationships and money, to the cadres. Third, through building a beneficial relationship with cadres, the parties can protect themselves from the blame of convention, because those who whisper behind backs also interfere with the cadres' ability to reap benefits. That is why the interviewee stated, “the cadres hate you too.”

In sum, the obtainment approach of the uxorilocal son-in-law’s membership consists of two methods. One is statutory obtainment through the decision of the court, which must be combined with de facto membership; another is applying for obtainment, which requires the parties to use their capitals to affect or change villagers’ preference.

7.5.4 Adopted daughter’s membership
To increase the population in order to get more compensation, some peasants choose to adopt a daughter as a family member. Usually the adopted daughter is from a family of the adopter’s relative or friend. Sometimes the adopted daughter is just in name only; as an interviewee says, “to adopt is to add a family member to make money.”

According to the Guidance on Definition of RECO membership in Sichuan,¹⁸ the adopted daughter’s approach of attaining membership is statutory obtainment, which means legal adoption and moving huji into the village. However, in the countryside, due to ignorance of state laws, simply not meeting requirements for adoption, or adopting in a more traditional society-approved way, adopters do not follow legal procedures. As a result, the adoption is regarded as unlawful, and the village collective will ask the party to use the applying for obtainment approach to deal with the membership definition, while gender-discriminating and outsider-excluding local logic infringes on the adopted daughter’s land rights.

Case 5:
Key point of the case: In May 2000, Ms. Yuan is adopted by Bao'an villagers, Yuan Xingzhi and Li Tingqiong (a couple that already has a son), but they do not apply for registration of adoption procedures by law. Yuan’s huji is in the 4th group of Bao'an village, since she has lived there. In July 2012, all the land of the 4th group is...

¹⁸ This instruction provides three definitions about membership obtainment, original obtainment, statutory obtainment, and applying obtainment. However, most of the court documents I collected do not refer to it. Two reasons possibly contribute this situation. First, it is made by Agriculture Department of Sichuan province, so its influence is limited. Second, it is introduced too late, in June 2015.

¹⁹ For example, the Article 6 of Adopting Law, “adopters shall meet simultaneously the following requirements: (1) childless; (2) capable of rearing and educating the adoptee; and...”
expropriated. The group announces the registration list of the household population and the list of the relocated population. Ms Yuan is included on both lists. But in terms of the payment of land acquisition compensation, villagers decide that "the Yuan Xingzhi couple conducted no legal adoption procedure for Yuan, so Yuan is not a RECO Member of the group," and they refuse to pay Yuan resettlement compensation valued at 25,720 yuan.

The first instance judgment: The Yuan Xingzhi couple, who already has one child, does not conform to the 6th article of Adoption Law. They also do not meet the 15th article of the law that adoptions should be registered with the Civil Affairs Department. Therefore, the adoption is not in accordance with the law, and Yuan is not a RECO Member of the group.

The second instance verdict: After the birth of Yuan, the adoptive parents picked her up and registered her in the public security organization. Since Yuan has been in the 4th group of Bao’an village, her life there requires no other alternative measures. Refusing her membership simply because there is no registration has no legal basis, and also violates the legitimate rights and interests of minors. Additionally, from the release date of the Land Acquisition Announcement, appellant Yuan is registered with the resident population of agriculture, which is in accordance with local policy about resettlement population. So, the 4th group’s refusing to pay Yuan is legally inappropriate. Dismissing the first instance verdict, the court of second instance supports Yuan’s appeal. (court file from openLaw.cn, September 2015)

In this case, there are contradictions in terms in both state logic and local logic, from which the appellant can benefit. For example, the group accepts the adopted daughter as a member of it in the list of registered population (hu ji ren kou ming ce), but refuses her
in the list of compensation distribution population (bu chang fen pei ren kou ming ce). The impacts of these contradictions are apparent, as when the courts reviewed the same facts, the produced two verdicts that were significantly different.

These contradictions of the group and the courts make the party’s strategic action critical. In the following, we will analyze their action in detail.

In terms of “original obtainment” (yuan shi qu de) and “joining obtainment” (jia ru qu de) (two words provided by the court verdict), the Guidance on Definition of RECO membership in Sichuan made by the Agriculture Department of Sichuan province in June 2015, provides corresponding instructions for “original obtainment,” “statutory obtainment,” and “applying obtainment.” Here, statutory obtainment and applying obtainment belong to joining obtainment, and adoption relates to statutory obtainment. Referring to other provincial regulations,20 “One or both parents born in the village and not moving out huji” belongs to original obtainment; “moving huji into the RECO because of legal marriage or legal adoption” is a kind of joining obtainment. All these regulations emphasize “legal adoption.”

So, according to regulations of original obtainment and joining obtainment, Yuan’s application for membership in this case, as an adoption without legal procedure, does not satisfy the condition of statutory obtainment; so the court of first instance denies her membership. However, in the court of second instance, by emphasizing that “Yuan was born in August 2000, and was . . . only 46 days old when the adoptive parents picked

20 Inner Mongolia, Qinghai Province, Hebei province, Anhui province, Jiangsu province, Hubei Province, Fujian Province, Liaoning Province, Shandong Province, Jiangxi province, Shaanxi Province, and Chongqing Municipality.
her up and took her home; her huji is original instead of joining obtainment,” and adding that “Yuan has lived and studied in the village for a long time and has no other source of life and security,” Yuan’s application is accepted by the court. This means that the court of second instance’s membership definition refers to standards like “registering huji, living in the village, and without other alternative security measures” and “belonging to resident population of agriculture.” These standards are in accord with the above Guidance on Definition of RECO membership, “local government should accurately handle the policy’s boundary, taking full account of household relations, land contract, dwelling condition, and performance of duty, and taking good care of the interests of various groups’ members, especially for women and children.”

After the above introduction of regulations, we analyze the adopted daughter’s litigation strategy. Following provincial regulation of legal adoption, the court of first instance refuses Yuan’s application. In response to the verdict, by emphasizing the “fact” that she is adopted at birth, the party skillfully transfers her obtainment from statutory to original, which is same as her brother, and adds some facts like having huji, long-term living, and lacking alternative living security. Finally, the controversy over her membership obtainment approach is turned into whether she is a de facto RECO member or not.

The following three facts seem to make the motive for adopting questionable: (1) the daughter is adopted two months before land expropriation, (2) the adopter family already has a son, which does not meet legal requirements, and (3) the adoption is not registered with the Civil Affairs Department. Thus, the party’s strategy treads on the boundaries of “lawful adoption” and “de facto adoption,” “statutory obtainment” and
“original obtainment,” taking full advantage of the conflicts between state logic and local logic, and finally wins the lawsuit.

**7.6 CHAPTER SUMMARY AND DISCUSSION**

This chapter aims to use the boundary-treading resistance concept to analyze how women and women-related individuals’ strive for RCEO membership using this specific question: how did women gain and lose their land rights and interests? This part first summarizes the key points of the state and local logic regarding membership obtainment, and then answers the question.

By organizing the above cases (see Table 7.1), we can see that three parties contribute to the definition of women’s membership: the state (the court) and its regulations, the village and its customs, and women and their families.

**Table 7.1 three-party logic and outcome in women’s land right cases**

<table>
<thead>
<tr>
<th>Type</th>
<th>The state logic</th>
<th>The local logic</th>
<th>Strategic action of women</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>out-married women</td>
<td>Huji, original obtainment, sole huji</td>
<td>Social identity, Outsider, sole huji</td>
<td>One person with two huji; statutory obtainment, plus de facto membership</td>
<td>Refused by the court</td>
</tr>
<tr>
<td>stepchildren</td>
<td>Huji, statutory obtainment, de facto membership</td>
<td>Social identity, Outsider, applying obtainment</td>
<td>Huji, statutory obtainment, de facto membership</td>
<td>Supported by the court</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Huji, contractual obtainment, by agency, back and fill</td>
<td>Partially Supported by the court</td>
</tr>
<tr>
<td>uxorilocal son-in-law</td>
<td>Huji, statutory obtainment, de facto membership</td>
<td>Social identity, Outsider, applying obtainment</td>
<td>Huji, statutory obtainment, de facto membership</td>
<td>Supported by the court</td>
</tr>
</tbody>
</table>
7.6.1 The key points of the state logic and the local logic

7.6.1.1 The state logic (represented by the court)

Two points characterize the state logic. First, we examine the huji-based characteristic. Huji centers the state logic; no huji, no further discussion about membership. Second, there are two obtainment approaches for membership. With the premise of having huji, the court distinguishes two membership obtainment approaches, original and statutory obtainment. Original obtainment, which is specific to birth, under the condition of having huji plus attaining it originally, can be decided by the court. Statutory obtainment, which mainly refers to adopted children, stepchildren, and the uxorilocal son-in-law, should be considered with de facto membership, which refers to standards like (1) living in the village, (2) without other alternative security measures, and (3) belonging to the resident population of agriculture.

However, the local court’s wide discretion brings other factors into consideration for both parties: time cost and lawsuit cost. In the meantime, due to limited resources to investigate and low litigation fee, sometimes it is difficult for the court to improve the

\[21\text{ Lots of court documents I collected shows that the court usually halves the fee for accepting arbitration case which the losing party pays.}\]
accuracy of a trial. In addition, when courts focus on citizen social security this may lead some opportunists to game the system to increase their rights.

7.6.1.2 The local logic (represented by the village meeting)

Three points characterize the local logic. First, we examine the social identity-based characteristic. Influenced by traditional values, the village collective regards all four categories women and women-related individuals as outsiders. Second, we consider the majority vote characteristic. In the name of villager self-governance, the village meeting makes illegal resolutions through the majority vote. Third, a contradiction exists between the village collective and villager. Each villager wants to register a higher family population to get more compensation for demolition, while the village collective wants to limit the number of RCEO to avoid the outflow of interests. As a result, some of the decisions the existing members make put the collective in an embarrassing position. For example, as we have seen in these cases, someone can be on the list of the registered population of the group, but is also excluded from the list of compensation distribution population. Due to this kind of irrational decision, the collective is often involved in lawsuits.

7.6.2 How did women gain and lose their land rights and interests?

Under the structural constraints from the state and the collective, women’s strategic actions aim to build a balance among the three-party relationship (the state, the village collective, and the women and women-related individuals).
In all five cases, there exist three pairs of relationships among three parties. The conflict of two different ideas exists in the relation between state logic and local logic, and the relation between the collective and women includes conflict of interests. However, the women’s action strategy is consistent with state logic. Since the former two antagonistic relations have established a fixed relationship, women have two choices to get a balance among three parties: either seeking support from the court, or casting aside state logic. Here, we discuss the first choice.

First, women try their best to go along with state logic. As seen in all the above cases, women attempt to get huji before bringing a lawsuit. Additionally, understanding the court’s respect for contracts and evidence, women and women-related individuals adopt strategies that correspond with those legal principles. For example, when having to accept contractual obtainment for membership, they take an oral commitment, instead of leaving written evidence.

Second, women fight against the village by any means available. As seen in this chapter’s cases, some of those resistance methods include: (1) applying social networks or money to build relationship with cadres; (2) probing the loopholes of the village collective’s ridiculous decision; and (3) making use of the state laws’ priority over local custom.

In contrast to the above summarized strategies for achieving a successful outcome, the following two points demonstrate strategies that have failed.
First, when women and women-related individuals’ action strategies are against the state logic, like the situation in case 1, these individuals are aligning themselves in opposition with the court and the village collective. Therefore, their actions often fail.

Second, when these individuals fall into traps, like choosing a contractual obtainment and making a written commitment (as in case 3), this leaves behind unfavorable evidence, which seriously damages the chances of winning the lawsuit.

Under these two situations, women’s actions break the balance among the three parties, causing them to possibly lose land rights and interests.

### 7.6.3 Cooperation and confrontation: the relationship between villager and village collective

Although in this chapter it seems that women and the court cooperate against the village collective, this does not mean that the cooperative relation is always stable. Instead, the relation among the state, the collective, and women (villagers) is constructed like a dynamic balancing act as illustrated in Figures 7.1 and 7.2.

![Figure 7.1](image1.png)

![Figure 7.2](image2.png)
Figure 7.1 shows the pattern of the relationship with regard to land acquisition. Fixed relations exist in the ideological conflict between state logic and local logic as well as the interest conflict between women and the collective. Under this condition, to achieve a balanced relationship among the three parties, women’s action strategies are to keep pace with the court and must try to meet the conditions of the court.

Figure 7.2 illustrates another situation that we examined in this chapter. Within this relationship triangle, the collective and the villager, pitted against the County government, cooperated to help women to register huji. In this situation, the cooperation of the village collective and the villager can help the parties get additional compensation from the state. That is why, in case 3, the parents of the stepchild wanted to make a written commitment to get membership.

When it comes to securing a membership definition and land rights, there is a dynamic balancing relation among the various interested subjects, which is highly dependent on a variety of circumstances and conditions. We cannot claim that women’s rights consciousness is awakened only in circumstances involving positive and ethical matters, nor can we simply regard women as the weaker member of the patriarchy. Behind these different scenes is the entire picture of the nature of PR, which is characterized by these dynamic and balancing relations among various subjects.
CHAPTER 8 CONCLUSIONS AND DISCUSSIONS

8.1 INTRODUCTION

This chapter will summarize and discuss the main findings of this study. It will briefly answer three main questions raised in the introductory chapter, namely, what is the nature of property rights, how are land property rights regulated and adjudicated, and how do women gain and lose their land rights and interests. The discussion provides our analysis of two questions: (1) how do composite property rights cope with the inconformity of the urbanization of rural land and the citizenization of land-expropriated peasants, and (2) how can we understand the characteristics of land-lost peasants in the process of urbanization.

8.2 CONCLUSIONS

This part will begin by providing the answers to research questions that were concluded by this study.

8.2.1 What is the nature of property rights?

Our answer is composite property rights (CPR), which includes economic property rights as well as social, cultural, and symbolic attributes of property right. Specifically, in a property right event, like a conflict or dispute, the aspect of CPR that takes effect depends on the capital structure of the parties and their ability to operate that capital. As for its internal mechanism, the transformation from economic capital to economic
property right is fundamental, while other forms of capital realize their corresponding attributes of property right by charging the transformation.

Since the materialist-legalist perspective—the “bundle of rights” idea—assumes a preexistent bunch of rights and views property rights as legally exclusive rights, which contain the right to use and the beneficiary right among others, it is not suitable for peasants’ diversified lives under the collective ownership of rural land. In the meantime, the relational property right, because of its single-dimension view and unclear causal relation, is a phenomenon that is difficult to explain in our fieldwork. Therefore, there are gaps between the theory of property right and its practice. As a result, we choose the CPR concept as our answer to the question, what is the nature of property rights?

The concept of CPR is theoretically inspired by Bourdieu’s capital theory and Zhang Xiaojun’s multiple property right theory, and is practically suitable to C County’s land right disputes. When government policy, stemming from the defective land institution, focuses mainly on the clear boundary of parties’ land rights, its “one size fits all” regulation cannot resolve the issues that arise from the diversity and complexity of peasants’ property. Due to the fact that demolition by force is illegal, the final outcome of property right transfer is determined by peasants’ demands such as “nobody can demolish my houses if my demands are not met.” As a result, peasants’ utilize their various capitals in the transfer of land rights; these capitals include social capital, the application of local custom, and the misidentification of property.

As opposed to power corruption, which involves a direct exchange of money and power, the concept CPR bases its operation on the transformation of economic capital to an
economic property right. This transformation is regulated by government policy. By attaching other capital to economic property and enlarging it, this increases the outcome of the transformation so peasants can receive more compensation.

However, we must limit the application field of the CPR concept. This concept is more suitable for imperfect market conditions, like rural land property right disputes. Two factors contribute to this conclusion. First, China’s defective land institutions, especially problematic regulations regarding rural land, are out of date with respect to land property right transfers, such that the society’s mainstream believes that land-lost peasants deserve sympathy and support. Second, although peasants’ resistance efforts have been found to be skillful in our research, their efforts lack grace and legal acumen such that once their arguments move into the courtroom, they are less likely to win a lawsuit.

8.2.2 How have land property rights been regulated and adjudicated?

Since we regard CPR as the nature of property right, the question then becomes: what are the characteristics of the practical logic of CPR? Charging the economic capital with other capital, the core mechanism of CPR, is not a trouble-free process because it means the government must provide more compensation and, thus, suffers financial loss. Correspondingly, to navigate the land right regulations, peasants explore an action strategy, the boundary-treading resistance. Basing the rationale of resistance on peasants’ local perception of land rights, this concept reveals their tactics based on three different relationships. First, as it relates to the state, the peasants’ resistance treads on state laws and land institutions by taking advantage of their capital. Second, as it relates
to the local government and developers, their strategies rely on probing counterparty loopholes, treading on boundaries of administrative enforcement of policy. Third, as it relates to villagers or familial relationships, their behaviors challenge village rules and traditions, treading on the boundaries of traditional moral principles.

Boundary-treading resistance is different from existing rural resistance concepts, like rightful resistance and treading on but not crossing boundaries. First, because of the defective land institutions and the government’s monopoly on the right of rural land transfer, it is very difficult for peasants, who are fighting the government, to utilize the type of political opportunity structure required for rightful resistance. Second, because of the ambiguous definition of the village collective organization retaining ownership of rural land and the one-to-one house demolition policy, it is also difficult to mobilize a collective resistance with a capable leader that is necessary to tread on but not cross boundaries. Third, if they do not resist land expropriation, peasants will be dissatisfied with the low government compensation. Thus to overcome this problem, peasants must develop a sophisticated resistance, otherwise if their resistance attempts are too weak, they will continue to suffer losses in compensation. Furthermore, if their resistance fails, they may have to face a lawsuit. Thus, with the rationale of the local perceptions on land rights in mind, the peasants, as individuals or the collective, organize potentially controversial tactics in order to receive more compensation by challenging all kinds of boundaries.

8.2.3 How do women gain and lose their land rights and interests?
Two considerations contribute to our discussion about women’s land rights and their corresponding resistance: our frameworks and interest in women’s rights. After building a framework of membership, we shift the above question into a specific one: since rural land is owned by rural collective economic organizations, how can an individual gain membership? In sum, women’s tactics include: (1) taking full advantage of the village collective’s self-contradictory decision, which admits their huji, but refuses their cuij; (2) revoking their previous promise; and (3) exploring the loophole of household register management. While they attempt to gain membership, women utilize their various capitals: (1) they use money as deposits to get support from the villagers meeting, or gift gain a cadre's favor, in order to move in (or in some instances, move back) their huji; (2) they use their relatives’ help to get information and other forms of support.

Women’s striving for membership can help us understand the dynamic balancing operation of CPR and can help us create a new approach—contractual attainment, for gaining membership.

All in all, as the nature of property right, CPR exists in land expropriation; and in C County, its realization approach is boundary-treading resistance.

8.2.4 Theoretical significance of CPR concept

What are the theoretical significances of CPR? Does the concept suit for other similar situation?
Two points contribute to the significances of CPR concept. First, C County is a less developed county in eastern Sichuan, western China, and its land price is very low comparing with some developed areas; meanwhile, the peasants are very pool all the year round. As a result, completing for relatively more interest from urbanization is practical for both the peasants and local government. So, C County pattern is a kind of less developed area pattern of land expropriation. Second, as for local peasants, a practical problem they have to face is: how can they get more land expropriation compensation? Instead of law-using and collective resistance, they sophisticatedly adopt a capital-using struggle, in a way of exchanging their capital with land interests based on policy.

To sum up, facing land expropriation disputes, peasants’ resistance in C County contributes to a different understanding of property rights, especially proposing specific components of “property rights as a relation between human”; meanwhile when completing for land interests their boundary-treading behaviors also provide a unique pattern different from “rightful resistance” and “rule consciousness” strategies.

8.3 DISCUSSIONS

8.3.1 The inconformity of the urbanization of rural land and the citizenization of land-expropriated peasants

Just as a coin has two sides, urban entrepreneurialism includes urbanization of rural land and the citizenization of land-expropriated peasants. The inconformity of the two sides is increasingly problematic.
To resolve this problem, the study examines how to match the two sides of urbanization? It is seemingly easy to manage—let the local government provide more compensation. However, as analyzed in the introductory chapter, the underlying reasons for land expropriation are to solve the governance crisis in different levels of government and to complete land value-added interest with peasants. Therefore, it is difficult to ask a poorly financed county to proactively provide more compensation for the land values as low as 1-3 million yuan per mu.

This research, through the peasants’ understanding of land rights, provides an approach, i.e., attaching all kinds of peasants’ resources to the property right transformation from economic capital to economic property right that is regulated by the government policy. As a result, peasants’ resources, including social networks, collective perceptions of property, and local customs, etc., are all transformed into capitals and these capitals enter their citizen life by charging the economic capital.

Peasants’ receiving more compensation through their resistance does not necessarily delay local urbanization because they are contributing to the urbanization by having their land expropriated at an extremely low cost. In fact, the number of land-lost peasants increases daily because of the inconformity of urbanization, making this phenomenon the biggest contributor to the ridiculously rapid urbanization.

8.3.2 Peasant-citizens (xiao nong shi min) in the process of urbanization
Our research observed that peasants in C County are characterized by the following features. First, the peasants are not well-versed in the land law—even believing rural lands belong to the State. Thus, their—interactions with the government are powerless, stating such thoughts as “we did not dare to say no (to the requisition).” As a result, without a consciousness of their rights and the possible use of those rights, they do not seek the rights of association and political participation. Second, they resent the policy and its implementation, deeming the outcomes of the policy to be unfair, and, based on this, they challenge the bottom line of the policy—citing the counterpart’s fault as their reason to cross the boundaries of law, policy, and rule. Third, since their own resistance strategies, like the fake divorce or illegal construction, are shameful and cannot be spoken of, they cannot expect government officials to obey the policy. Accordingly, our research does not demonstrate a “rule consciousness” of the peasants. Fourth, the peasants are typically indignant when others challenge the rules and, subsequently, increase their compensation. However, peasants are ready to bend the rules when it works to their advantage. All these characteristics demonstrate that the peasants are personally insecure during the rapid urbanization, and, more importantly, that they are peasant-citizens, who knowingly take petty advantage of others in an effort to be clever for their own financial gain. Taken together, these characteristics and our additional research reveal that the peasant resistance has a long way to go to successfully safeguard citizen rights.

8.3.3 Limitation of this research
Since this research collected interviewing data mainly through the social network of my father-in-law, a retired county official of C County, it inevitably leaves some limitations.

First, as research guide, my father-in-law selected township officials and village cadres, all his subordinates in the past, and all these interviewees are very good at story-telling; as a result, the interviews are easily dominated by them. Meanwhile, my father-in-law’s being on the scene also influenced the interviewees’ information-sharing; they preferred to share some of their successfully resolved troublesome cases and avoid some sensitive cases, especially the collective resistance. Furthermore, my father-in-law is very face-saving, so he did not select those officers he had weak connection with them, let alone those officers who have different standpoint from him. All these factors obviously influence the research.

Second, during my data-collecting period, I mainly focused on individual peasant’s capital structure and their capital-using strategies, paying less attention to collective resistance. As a result, this research does not specially analyze the capital structure and capital-using strategies of collective movements, leaving a field for the future study.
APPENDICES

附件 1: C 县人民政府关于 C 县 2015 年第 3 批城市建设征收土地方案22

2016-03-07 15:17:05 来源: 点击: 3

C 县人民政府

关于 C 县 2015 年第 3 批城市建设征收土地方案的
公 告

根据《中华人民共和国土地管理法》、《中华人民共和国土地管理法实施条例》、《四川省〈中华人民共和国土地管理法〉实施办法》的有关规定和《四川省人民政府关于 C 县 2015 年第 3 批乡镇建设用地的批复》(川府土〔2015〕1192 号) 精神, 现将批准的《征收土地方案》内容和相关事项公告如下。

一、建设用地项目名称: C 县 2015 年第 3 批乡镇建设用地。

二、征收土地村组、面积:

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三、征地补偿及农转非人员安置、社会保险以及房屋拆迁办法

征地补偿、农转非人员安置、社会保险以及房屋拆迁按照《广安市征地补偿安置办法》(广安府发〔2013〕13号) 有关规定执行。

四、被征收土地范围内的土地所有权人及青苗附着物产权人在本公告公布之日起 10 日内持土地权属证明材料到当地乡镇人民政府办理征地补偿登记，土地所有权人及青苗附着物产权人在规定期限内未办理征地补偿登记的，以当地乡镇人民政府登记为准。

C 县人民政府

2016 年 3 月 2 日

22 http://www.ycxlr.gov.cn/gtj/2016/show-151-775-1.html 字体格式有调整。
附件2：C县国土资源局征地补偿安置方案公告（即XM村9组）

www.guang-an.gov.cn 2012-11-09 来源：市国土资源局

根据四川省人民政府川府土〔2012〕667号文件批准的《征收土地方案》，我局在对被征地村民小组征地补偿登记复核基础上，报县2012年第二批城市建设用地《征地补偿安置方案》。根据《中华人民共和国土地管理法》第48条和《中华人民共和国土地管理法实施条例》第25条规定，现将《征地补偿方案》内容和有关事项公告如下：

一、即XM村9组的基本情况：农业人口157人，土地总面积193.67亩（其中耕地146.57亩、田坎31.13亩、果园地3.17亩、坑塘0.1亩、沟渠2.45亩、建设用地10.25亩，）人均1.15亩，年产值1450元/亩。

二、本次征收土地的位置：即XM村9组，征收面积：193.67亩（其中耕地146.57亩、田坎31.13亩、果园地3.17亩、坑塘0.1亩、沟渠2.45亩、建设用地10.25亩，）需安置的农业人口157人。

三、土地补偿费、安置补助费补偿标准、支付对象和支付方式
1. 耕地、田坎、果园地土地补偿费：年产值1450元/亩×面积180.87亩×10倍=2622615元；坑塘、建设用地土地补偿费：年产值1450元/亩×面积12.8亩×10倍÷2=92800元；土地补偿费合计2715415元。
2. 耕地、田坎、果园地安置补助费：年产值1450元/亩×面积180.87亩×6倍=1573569元；坑塘、建设用地安置补助费：年产值1450元/亩×面积12.8亩×6倍÷2=55680元；安置补助费合计1629249元。
3. 支付对象：土地补偿费，扣减劳动力转非人员失业保险集体应缴部分后剩余部分，直接支付农村集体经济组织，由JL镇人民政府监管，农村集体经济组织按有关规定使用。参加社会保障的，安置补助费首先作为缴纳被征地农民本人的社会保险资金，多余部分留作个人生活安置费用。
4. 支付方式：现金支付。

四、青苗补偿标准、支付对象和支付方式
1. 青苗补偿费为：征收耕地、田坎177.7亩×870元/亩=154599元；
2. 支付对象：青苗补偿费直接支付给所有者；
3. 支付方式：现金支付。

五、农业人员的具体安置途径
1. 在当地政府批准《征地补偿安置方案》之日已年满16周岁的被征地农民，均应参加基本养老保险。
2. 支付安置补助费：在当地政府批准《征地补偿安置方案》之日不满16周岁的被征地农民，由征地单位直接向其法定监护人发给安置补助费，标准为征地时所在组农转非人员人均享受安置补助费的数额。
3. 对征地农转非人员，符合条件的纳入基本医疗保险和失业保险。

六、即XM村9组土地所有权、土地使用权权属人对本方案内容如有不同意见，请于2012年11月14日以前以村委会（村集体经济组织）为单位，以书面形式送岳池县国土资源局。

七、本方案在征求意见后，报C县人民政府批准组织实施。根据《中华人民共和国土地管理法实施条例》第25条的规定，对批准后的《征地补偿安置方案》有争议，不影响组织实施。

特此公告

C县国土资源局
二O一二年十一月九日

http://www.guang-an.gov.cn/newscenter/content.jsp?id=36767&classld=021146
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