

5 How the Market Mechanism Can Be Utilized in Land Acquisition

Case Studies in Foshan and Sanand

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The fundamental principle guiding the doctrine of eminent domain is that the state has to provide just compensation when it acquires private property for public use, where 'just compensation' is measured in accordance with the market value, which requires widespread and fully functional land markets. The English equivalent of this doctrine is 'compulsory purchase' where the term 'purchase' implies 'purchase in a free market'.¹ Therefore, just compensation must be applied in a free and prevailing land market, which is usually not found in developing societies.

Most of the current literature fails to discuss thoroughly the free land market which is in most cases either nonexistent or malfunctioning in developing countries. These countries are undergoing a transition from traditional or pre-modern to modern-era societies. The free movement of labour, land, and capital, the fundamental characteristics of a capitalist society, is still underdeveloped in these countries. For many parts of these societies, land has much more meaning than only as an

¹ Keith Davies, *Law of Compulsory Purchase and Compensation* (London: Butterworths, 1984).

economic resource. It may be deeply connected with people's social status, life security, religious sentiments, and so on. In some regions, people are unwilling to give up their land even at much higher prices. Land transition never or seldom happens, even though in some other more developed regions, a strong land market may exist and function well.

The land market in developing societies is uneven in this sense. As a consequence, legal doctrines like eminent domain may fail to function in strict terms in such societies. Without a fully developed land market, just compensation as a principle to balance public interests and private interests becomes an illusion, as the existing market prices do not reflect the true value of the land acquired. Confrontation arises due to the different evaluations of land value by different agents. In addition, the absence of a land market reflects the unwillingness of peasants to give up their land at any price in some extreme cases. All of these issues are inclined to cause conflicts between the peasants and the state in land acquisition, which makes land acquisition very difficult in developing societies.

Hence, the absence and the malfunctioning of the land market is one of the major hurdles in smooth land acquisition in developing societies. To overcome this difficulty, measures to build and strengthen land markets are inevitable and necessary in such societies. This chapter focuses on two typical and successful compulsory land acquisitions in India and China, including one in Foshan, Guangdong, China, and the other in Sanand, Gujarat, India. Both of them are in the most industrial and commercial regions in the two countries. The local authorities have respectively introduced measures to enhance the market mechanisms to smoothen the process of land acquisition, and contributed to a positive-sum game for all stakeholders in land acquisition for development. Through the analysis of the working of the land market in both cases, we will explore the necessity of local authorities' innovation in carrying out economic policy for development, which has been limited by national regimes, but can be improved by local endeavours.

The chapter is organized in five sections. In the first section we review the status of the land market in both countries, and the challenges it has induced. In the second section, the case of Sanand in Gujarat is discussed. The third section is focused on the case of Foshan New Town project in Guangdong province, China. In the fourth section we discuss the significance of land markets, while the role of local

innovative practices and markets in improving the performance of land acquisition in developing societies like India and China is discussed in the final section.

LAND MARKETS IN CHINA AND INDIA

The Chinese Land Market

The legal land market system in China is complex and diverse. In terms of the ownership, urban land is owned by the state while rural land is collectively owned by the commune consisting of villages. As a result, there is no land market with private ownership in China. However, since the beginning of the reform and opening-up policy from the end of the 1970s, several private land property rights were formulated and admitted by the state, including the land-use right in urban regions, and contract and management right for agricultural land in rural areas. Land-use rights in urban regions are normally for development usage. This is a kind of arrangement where the government leases out the land legally for 70 years, 40 years, and 30 years for residential, commercial, and industrial purposes, respectively. It constitutes the primary urban land market. After acquiring the land with the right to use, companies and individuals are allowed to transfer the land in the secondary land market in the form of either developed or undeveloped land. In rural regions, developed land cannot be transferred except for the usage of the collective commune, but contract and management rights (that is, the lease of the member household from the commune) are permitted to be transferred, and consequently turn into the rural rental-land market (see Figure 5.1).

The land markets in China are different from their counterparts in more developed societies. With the adoption of a rigid agricultural land protection system, any agricultural land is not allowed to change to non-agricultural activities without the permission of the local government. Both individuals and communes are forbidden to sell such land for development purposes. However, if the transition of the land for industrial/commercial/residential activities is in line with urban or development planning, then such land can be acquired by the local government which represents the state, and thus becomes the owner of the land. By transferring the land acquired in the primary

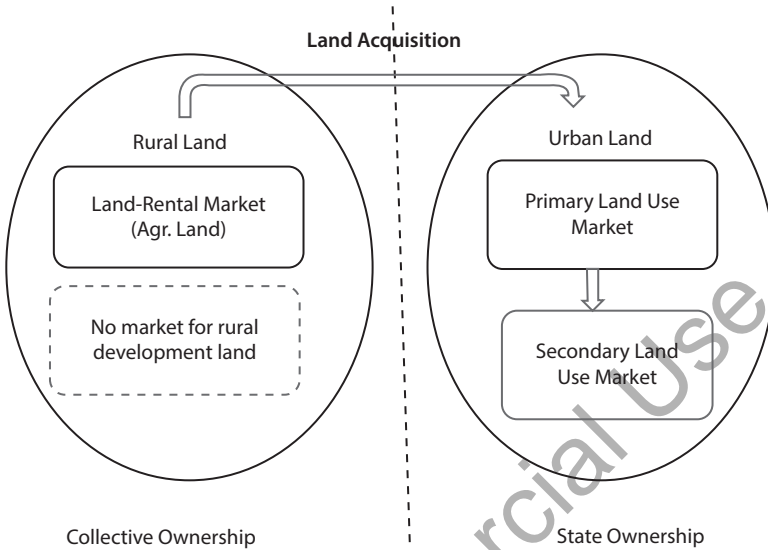


FIGURE 5.1 Land Market in China

Source: Author.

land market, the government, as the only provider of land, gets a large land-transferring fee in proportion to the transfer, which contributes around 40 per cent of the local revenue in China.²

This unified and strict usage control system leads to large land price gaps in various land markets. As for the suburb region, due to the limitations on the use of land, a plot of agricultural land cannot be transformed into development land unless the government acquires it under its eminent domain. The main flaw in this practice is that the actual value of the land before land acquisition is not known in advance. However, after the acquisition, it becomes land for urban/industrial development, and can be transferred in the primary land market. Here, land prices shoot up to 40 times the amount of the compensation paid to the owners (either to the commune or to the individual who has the contract and

² Shouying Liu, *Zhimian Zhongguo Tudi Wenti* (直面中国土地问题) [*Land Issue in Transitional China*] (Beijing: China Development Press, 2014).

TABLE 5.1 Criterion for Compensation of Land Acquired in Guangzhou, 2012

Administrative Districts	Arable Land	Field	Forest Land	Aquaculture Water Surface	Unutilized Land
Yuexiu District	12.0	9.24	4.2	10.8	3.72
Haizhu District	12.0	9.24	4.2	10.8	3.72
Liwang District	12.0	9.24	4.2	10.8	3.72
Tianhe District	12.0	9.24	4.2	10.8	3.72
Baiyun District I	12.0	9.24	4.2	10.8	3.72
Baiyun District II	10.0	7.70	3.5	9.0	3.10
Huangpu District	10.0	7.70	3.5	9.0	3.10
Huadu District I	8.0	6.16	2.8	7.2	2.48
Huadu District II	6.0	4.62	2.1	5.4	1.86
Panyu District	12.0	9.24	4.2	10.8	3.72
Nansha District	8.0	6.16	2.8	7.2	2.48
Luogang District I	10.0	7.70	3.5	9.0	3.10
Luogang District II	8.0	6.16	2.8	7.2	2.48

Source: Guangzhou Government, 'Yinfa Guangzhou Shi Zhengdi Buchang Baohu Biao zhun Zhidao Yijian (Shixing) de Tongzhi' (印发《广州市征地补偿保护标准指导意见(试行)的通知》) ['Circular on the Tentative Guidelines of the Criterion for Compensation for Land Acquired in Guangzhou'] (2012), <http://www.gz.gov.cn/gzswjk/2.2.21/201201/42f8ed642461431d8970f1ecc36ed0de.shtml>. In RMB 10,000/mu.³

management rights).⁴ It contributes large amounts of financial resources to local governments, which enables them to provide civic amenities for the local population. However, it also gives rise to disputes and conflicts between the acquiring authorities and landowners.⁵

³ One Chinese mu equals 666.7 square metres.

⁴ YiBiao Lin, *Bei Zhengdi Nongmin Chayixing Shouchang Yiyuan Yanjiu* (被征地农民差异性受偿意愿研究) [Studies on the Willingness of Peasants towards the Compensation in Land Acquisition in the Fujian Provinces] (Fuzhou: Fujian People Publishing House, 2011), 36–8.

⁵ Hui Wang and Ran Tao, *Zhongguo Tudi Zhidu Gaige: Nandian, Tipu Yu Zhengce Zuhe* (中国土地制度改革: 难点, 突破与政策组合) [Chinese Land Institution Reform: Issues, Advancement and Policy Package] (Beijing: The Commercial Press, 2013).

As a result, the compensation for agricultural land in China is not evaluated on the ground of market value because the change of usages is highly controlled, and the transfer of agricultural land into development land is banned. Land acquisition is the only legal alternative to develop agricultural land for urban purposes. The total amount of compensation is not allowed to exceed 30 times the average production value of the acquired land in the three years prior to acquisition. Normally this works out at around RMB 30,000 per Mu in many places. With the variation of location, in some coastal regions, such as in Guangdong province (see Table 5.1), the price may increase dramatically in accordance with the criterion set by the municipal government. For instance, arable land in Guangzhou which is to be acquired by the government may be compensated at an amount ranging between RMB 60,000/mu and RMB 200,000/mu due to the locations in different districts.⁶ However, the land prices in each region are the same, and are not sensitive to their further value.

India's Land Market

Land markets in India function under a system different from that of China. The majority of the land is owned by private households, and there is no separate system regulated by the government. However, the development of land markets is varied in different regions. In some regions, such as Gujarat, Punjab, and Kerala, land markets exist and function very efficiently not only in urban or suburban areas but also in rural areas. But in some other regions, particularly in some underdeveloped rural areas, land markets are non-existent. In a field trip to Nandigram, West Bengal, the peasants argued that there was no land market.⁷ People seldom sell lands. Those landowners who are willing

⁶ 'Guangzhoushi Renmin Zhengfu Bangongting Guanyu Yinfa Guangzhoushi Nongmin Jiti Suoyou Tudi Zhengshou Buchang Shixing Banfa De Tongzhi' (广州市人民政府办公厅关于印发广州市农民集体所有土地征收补偿试行办法的通知) ['Circular on the Interim Measures for Land Expropriation of the Peasants' Collective-owned Land in Guangzhou by the Office of the Municipal Government of Guangzhou'], Guangzhou Government, 2017, <http://www.gz.gov.cn/gzgov/s2812/201708/cb90a3dc-1c764b13bea3688fc9d66687.shtml>.

⁷ Fieldwork at Nandigram, West Bengal, 29 July, 2015.

to sell their land use private connections rather than going to an agent, who are absent in the region. The prices are set by the seller and the buyer through their mutual bargaining. No intermediary exists nor is it needed. Under such informal settlements, with the absence of an institutional framework, an effective land market cannot be developed, and it leads to the undercapitalization of land. This explains why the peasants do not want to sell their lands under the government's land acquisition policies as it is not easy to place a value on their land. It even leads to protests against the government or investors in development projects. So the lack of a land market is a major barrier in the government's efforts to acquire land for development activities in these parts of the country.

Even in the more advanced regions where land markets are by and large developed, the registered price is found to be much lower than the amount actually paid for buying the land to evade stamp duties to the government. In some research, it is argued that only 40 per cent of the actual market value is registered.⁸ The compensation for the land is estimated by the average registered price of land in the region in the past three years; however, at even 130 per cent of this registered market value as the key part of the compensation set by the Land Acquisition Act, 1894 (LAA), it is still under-compensated, and only equals 50 per cent of the real market value theoretically. Therefore, due to the absence of or dysfunction of the land markets, the criterion of market value fails to fulfill the promise of just compensation to the land-losers. Even the compensation paid in accordance with the registered price is much less than the true value, and it consequently leads to disputes and conflicts between the landowners and acquiring authorities.

Last but not the least, the exchange of land is so rare in rural regions that families who lose their land to acquisition may fail to find other land to cultivate or invest in. Generally, many of them lose their livelihood, and become landless or marginal landowners, and fail to find an alternative livelihood. The challenges they encounter far exceed the compensation amount paid by the government.

In summary, compared with developed countries, the capitalization of land in developing societies like India and China generally lags far

⁸ Walter Fernandes, 'Singur and the Displacement Scenario', *Economic & Political Weekly* XLII, no. 3 (2007): 203–6.

behind that of labour and goods. In China, highly state-controlled systems of land markets lead to a strong sense of deprivation among the landowners due to the prevailing high price gap.⁹ In India, the imperfections of land markets, including the undervalued registered price, the non-availability of new land, and the absence of market price due to the rare instances of land transactions, render the market price criterion improper to give just and fair compensation to landowners. This generates a host of challenges in the entire process of land acquisition. Thus the lack of effective land markets is a hurdle for the governments to acquire lands under eminent domain in China or India.

In this context, some innovative measures taken at the local government levels towards developing land markets are significant for smooth land acquisition in these countries. Hereinafter, we will look into two cases which are apparently more successful than acquisitions in many other places in these countries. They are the Sanand Industrial Estate in Gujarat and the Foshan New Town project in Guangdong. From the analysis of these two cases, we will see how innovative measures can be taken to build and improve land markets which provide a fair price to the land-losers, and lead to smoother land acquisition.

SANAND INDUSTRIAL ESTATE IN GUJARAT

Sanand Industrial Estate is a subsidiary of the Gujarat Industrial Development Corporation (GIDC), which, as an agency of the government of Gujarat, is committed to provide the industrial backbone for the state. The GIDC was set up under the Gujarat Industrial Development Act, 1962, and currently has an inventory of 202 estates comprising over 63,000 units across the state. Sanand Industrial Estate is located at a distance of 35 kilometres from the business capital of Gujarat, Ahmedabad, on 2,055 hectares of land. It focuses on sectors like engineering, automobiles and ancillary units, engineering plastics, semiconductors, and electronics, among others.¹⁰ The estate is known for introducing the Nano project from Singur, West Bengal to Sanand, Gujarat on 7 October 2008, after the West Bengal government faced

⁹ Lin, *Bei Zhengdi Nongmin Chayixing Shouchang Yiyuan Yanjiu*.

¹⁰ 'Sanand Industrial Estate', GIDC, https://gidc.gujarat.gov.in/pdf/gidc-presentation/GIDC_Sanand_Industrial_Estate.pdf.

furious protests from local communities resisting the acquisition of 997 acres of land in Singur. These protests incidentally turned out to be one of the key causes of the collapse of the 34-year-reign of the Communist Party of India (Marxist) (CPI(M)) in West Bengal.

Sanand Industrial Estate provides 1,100 acres of land to the Nano project. It has been acclaimed for creating numerous job and investment opportunities. At the inauguration of the first plant in 2010, just 14 months after the beginning of the relocation, it was announced that INR 20 billion would be invested with a capability of manufacturing 250,000 units annually, and generating 10,000 direct or indirect jobs in the state.¹¹ In a sharp contrast to the hurdles the Nano project encountered in land acquisition in West Bengal, the whole process was smooth and speedy in Gujarat. As a result of numerous factors like the business-friendly social-economic conditions and feasibility of high quality infrastructure, Gujarat became the most favourable state for investment according to a research report of the Deutsche Bank.¹² The state produces 30 per cent of India's chemicals and pharma products, and 38 per cent of its petroleum products. Ninety per cent of India's diamond processing takes place in Gujarat.¹³ Even in a medium subsidiary like Sanand Industrial Estate, besides the Nano project, numerous world-class industries like Posco, Nivea, Coca Cola, Nestle, and so on have set up their units.

There are several factors contributing to the successful land diversion for developmental activities in Gujarat. Firstly, there are many other alternatives for land development in the state. In an interview with Mr B.B. Swain, the vice director of the GIDC, he referred to various ways of land development in Gujarat.¹⁴ For example, private

¹¹ 'New Plant for Tata Nano at Sanand Inaugurated', Tata.com (2010), <http://www.tata.com/article/inside/XFBpop5GFuM=/TLYVr3YPkMU>.

¹² Eric Heymann and M. Vaeth, '450 Billion Reasons to Invest in India's Infrastructure', *Deutsche Bank Research Report*, Asia, Current Issues (28 November 2007).

¹³ 'Industrial Park Development in the State of Gujarat', Gujarat Infrastructural Development Board, last modified 7 October 2013, http://www.igep.in/live/hrdpmp/hrdpmaster/igep/content/e48745/e49028/e56649/e57530/04_GIZintconf710_VR.pdf.

¹⁴ Interview with B.B. Swain, 24 September 2015, at Sachivalaya, Gandhinagar.

industrial parks have been built and used in the state, such as Mascot Industrial Park near Ahmedabad, and Horizon Industrial Park and Nexus Industrial Park in Vadodara district, which are run by private companies. These private industrial parks are usually located near the estates of the GIDC, and provide high standard services and land plots to different enterprises. Land pooling is another alternative to develop land. Under the Town Planning and Urban Development head, local governments in Gujarat develop the acquired land into civil infrastructures, pool some proportion of the land into their land bank, and return the majority to the original owners. In three town planning schemes in Ahmedabad, 64–84 per cent of acquired lands were returned to the property owners, while 4–9 per cent were reserved for sale, and the remaining land was developed as infrastructure and public facilities, for example, roads, low-income houses, and so on.¹⁵ Because an effective land market exists in Gujarat, companies in the state are able to buy land from the owners and develop their own warehouses. As an illustration, the first Ford plant set up its warehouses before it shifted to GIDC's estate in Sanand. Besides, even though GIDC is a non-profit government agency, it frequently purchases land from the property owners rather than indulging in compulsory acquisition. Land acquisition is adopted only as the last resort for land development in Gujarat.¹⁶

However, even when land transition in the state is efficient, in order to avoid the flaws of the national land acquisition regime which had been framed under the LAA, the state government has introduced several additional arrangements to improve land acquisition. The Gujarat state government released a new land acquisition policy formulated by the GIDC in 2010. It encompassed the following reforms which developed into an independent land acquisition regime:¹⁷

¹⁵ Shishir Mathur, 'Use of Land Pooling and Reconstitution for Urban Development: Experiences from Gujarat, India', *Habitat International* 38 (2013): 199–206.

¹⁶ Interview with B.B. Swain, 24 September 2015, at Sachivalaya, Gandhinagar.

¹⁷ 'GIDC Land Policy 2010', https://gidc.gujarat.gov.in/pdf/Whats_New/Participative_Policy_Development_New_Estates.pdf.

- It is GIDC policy to acquire land for its estates normally by consent;
- The Centre for Environment Planning and Technology University (CEPT) will fix the prevailing market price for each plot of land;
- In addition to the payment for the land at market price, 10 per cent of the differential value between the raw land price and the developed land price, such as industrial, residential, or commercial land, shall be paid to the landowners. This amount shall be calculated annually based on a financial year, and shall be paid each June of the succeeding financial year;
- The original landowners are entitled to the allotment of a commercial plot to the extent of 1 per cent of their land acquired at a token rate of INR 1 per square metre;
- Any landowner whose total rural landholding has been acquired by the government shall be entitled to one-time financial assistance equivalent to 750 days of minimum agricultural wages for loss of livelihood, which amounts to INR 75,000. Likewise, any landowner who becomes a marginal farmer as a result of the land acquisition will be entitled to one-time financial assistance equivalent to 500 days of minimum agricultural wages;
- The GIDC will sponsor one person between the age of 18 and 45 from the landowner's family to study in ITI or a similar approved institution for a course for up to two-years duration;
- Special measures are taken for scheduled tribe (ST) landowners. For example, those who lose 50 per cent of their total landholding may be paid additional assistance equal to 500 days minimum agricultural wages, and those who are displaced due to land acquisition shall be resettled as close as possible to their natural habitat, and in a compact block in order to preserve their ethnic, linguistic, and cultural identity.

From my fieldwork in two villages in Sanand, the outcome of this policy seems quite positive. During fieldwork in Rasupa and Bod villages in August 2015, five families whose lands were acquired, were visited by random selection. The data regarding the total amount of land acquired, compensation, and the usage of the compensation were collected during the interview. As indicated by Table 5.2, several unique characteristics of the land acquisition in the region are highlighted as follows:

TABLE 5.2 Samples from Families Whose Land Was Acquired in Two Villages of Sanand

No. of Interviewee	Land Acquired (bighas)	Total Compensation (INR million)	Average Land Price (compensated INR million/bigha)	Use of the Compensation
1	4	12	3	Bought new land, built new house, other investment
2	30	85	2.83	Bought new land
3	18	55	3.05	Bought new land
4	12	21	1.75	Bought new land, opened a small store of mineral water
5	30	84	2.8	Bought new land, rebuilt houses, support relatives

Source: Interviews at Rasupa and Bod villages, Sanand, 20 September 2015.

Firstly, good compensations were provided. The average compensation ranged from INR 1.75 million/bigha to INR 3.05 million/bigha, which is dramatically higher than the standards set by the LAA. Peasants were happy with the compensation, and became *crorepatis* due to the land acquisition.

Secondly, as landowners narrated, their land was acquired through case-by-case bargaining. The price of land varied due to differential features of the land, such as the location, scale, and fertility. However, the location was far more significant in determining the final price than the rest, which is in consonance with the modern land economy.

Thirdly, most of the families whose land was acquired invested in more land elsewhere, and now possess an even greater amount of land than they used to have. Generally, the families whose land was acquired invested some part of the compensation in their homes, and the other part was deposited in banks. There were also some families who began to run stores to earn their livelihood. However, to buy land nearby or sometimes in neighbouring villages was a general practice for all families. Therefore, instead of losing their livelihood, they become larger landholders. Undoubtedly, not all such families improved their living standards. During the interviews, some peasants argued that some families failed to manage their compensation in a wise way; some even squandered their cash and became impoverished, as we can see in other cases like Gurgaon.¹⁸

On whole, the new land acquisition policy of the GIDC has been embraced by the local community. The landowning families improved their living standards not only by getting a fair compensation, but also by taking a share of the differential proceeds produced by the land development. Moreover, they actively participate in the land markets and invest more in land which makes their livelihood sustainable. During my fieldwork, much excitement and expectation for land acquisition was observed among the landowners.

The lack of effective land markets in the other parts of India appears to have been overcome in Gujarat. As discussed above, the successful stories of land acquisition/transition in Gujarat have multiple contributing factors, including the prevailing entrepreneurial culture, the huge migrant population, the state government's commitment to industrialization, and the diligent institutional design of the new policy. All these factors improve the functioning of land markets in Gujarat, and consequently contribute dramatically to the success of land acquisition and smooth industrialization/urbanization.

FOSHAN NEW TOWN

The Foshan New Town project is a city expansion project of establishing a new central business district (CBD) in Foshan city, which is

¹⁸ Vishal Narain, 'Growing City, Shrinking Hinterland: Land Acquisition, Transition and Conflict in Peri-urban Gurgaon, India', *Environment and Urbanization* 21, no. 2 (2009): 501.

being targeted to bring an investment of RMB 22 billion, and expand the urban region geographically by 88 square kilometres since 2003. Around 66 square kilometres of the development land is located in the suburban region of Shunde District, Foshan, particularly in Lecong town, an industrial area known for manufacturing furniture and plastic products.¹⁹ Several villages in Lecong consequently have witnessed large-scale reconstructions and relocations due to land acquisition for the development project.

From the year 2003 onwards, several rounds of land acquisition were undertaken in the local villages. The villages had become urban villages gradually with a hybrid of urban and rural landscapes. In these villages, only a small amount of land was really being used for agricultural activities. The majority of land was rented for industrial and commercial uses. More importantly, as the migrants coming from outside constitute half the population in these urban villages, a lot of land was rented to the migrants who managed small stores, factories, rental housing, and so on. Thus the landowners in these villages had changed their lands to more profitable uses than agricultural cultivation. Besides, they took dividends from the communes as shareholders of the collectively owned land. Not surprisingly, the compensation paid according to the Land Administration Law, 1998 (LAL) in China certainly fails to make up for the losses incurred by the villagers who enjoy rights on the land.

The Guangdong Provincial government promulgated a policy to return at least 10 per cent of the acquired land as developed land to the villagers.²⁰ However, the scarcity of quotas for construction land;

¹⁹ 'Foshan Xincheng Fazhan Licheng' (佛山新城发展历程) ['The Development Process of Foshan New Town'], Foshan New Town, 2016, http://www.fsnewcity.gov.cn/xwzx/rsdp/lsyg/201605/t20160506_5599133.html.

²⁰ This policy began in the early 1990s in Guangdong, and it has been ratified in the government ordinances thereafter in the province, see Guangdong Provincial Government, 'Guangdong Zhengdi Guanli Guiding' (1993) (广东征地管理规定) ['Regulations on Land Acquisition in Guangdong'], http://www.gd.gov.cn/govpub/dffg/200606/t20060616_1479.htm; Guangdong Provincial Government, 'Guangdong Renmin Zhengfu Bangongting Guanyu Zhuanfa Sheng Guotu Ziyuanting Guanyu Shenhua Zhengdi Zhidu Gaige

disputes over availability, the location, and the sale of the returned land, frequently lead to conflicts between the local government and communes.²¹ Peasants expressed complaints on the delay of implementation of this policy during interviews. Consequently, the original compensation packages, including an amount of RMB 57,000 to 60,000 per mu set by the national regulations and 10 per cent of the land promised to be returned by the Guangdong provincial government, for many reasons, failed to satisfy the land-losing communes, and lead to confrontation between the government and peasants.

After the final decision of the municipal government to build a huge CBD in the region in 2012, negotiations between the local government represented by the Administrative Committee of Foshan New Town and the local communes, including the villages of Dadun (大墩村), Yuebu, and Xiacong, among others, were conducted. The Administrative Committee was established by the municipal government. Several new policy innovations were adopted regarding the acquisitions. Under the Remake and Acquisition project of Dadun Village in 2015, for instance, the commune and the Administrative Committee reached an agreement called 'the Scheme of the Total Remake of Dadun Village, Lecong,' which includes following innovative arrangements regarding the land acquisition:

De Yijian De Tongzhi' (广东人民政府办公厅关于转发国土资源厅关于深化征地制度改革的意见的通知) ['Circular on the Opinion on Deepening the Land Expropriation Instituted by the Land and Resource Department', Issue No. 29] (2005).

²¹ China has adopted a quota system to control the use change of its agricultural land since 1998. The quota is set by the Central Government in accordance with its five-yearly economic and social development plan. For example, in its thirteenth five-year plan for economic and social development, the overall scale of the quota for increase in land newly designated for construction (also called quota for construction land, *Jianshe Yongdi Zhibiao*) during 2000 to 2016 is less than 2.17 million hectares (see Central Compilation & Translation Press, Central Government of China, *The 13th Five-Year Plan for Economic and Social Development of the People's Republic of China* (2016), <http://ghs.ndrc.gov.cn/ghwb/gjwngn/>). The quota is distributed between the ministries and local governments, and only on this land is land-use change from agriculture to others legal.

Firstly, instead of compulsorily acquiring the land, the local government now takes several alternative measures to build a functional land market for the local commune. As stated previously, communes that collectively own rural land are banned from transferring their land directly to the developer even when a plot of land is planned to be developed under the master plan. It shall be acquired by the state, mostly represented by local governments, and then be transferred to the developers. In this regime, the peasants who will lose their land do not have the right to negotiate with developers. The compensation rate is standardized and fixed, and thus not sensitive to the potential market value. The market mechanism is absent totally in the first transition of forceful land acquisition, but it does exist when local governments transfer it to developers.

In the Dadun remake project, the local government would not acquire the land and subsequently transfer it to the private developer as it used to do. Rather, the land would be 'sold' in the primary land markets through direct negotiation between local communes and developers, and thus the land price would be fixed according to the market value. In order to legalize the purchase, the Foshan government still had to use parts of its quotas for construction land, which is precious and scarce to the local government in China for the limited amount they are granted. The title of the land would remain under the name of the government, and formally be transferred by the local government to the developers. However, the local government would return the land transferring fee back to the commune, and pool it as the funds for the whole project. In addition, the remake plan was discussed in the village, and several rounds of negotiation between the government and the commune proceeded. Finally, they came to a vote among all the adult villagers, with the result of 94 per cent of the peasants agreeing with the drafted plan.

Secondly, a lucrative compensation package was provided to the commune and all its members. It includes:

- A villager who holds stock in the collective economic group in the commune gets RMB 300,000 as a one-off dividend, and long-time annual dividend RMB 10,000 for the first five years, and RMB 20,000 annually since the sixth year. The stocks were distributed based on the criterion that an elderly person enjoys 3 shares, young and middle-aged get 2, and a child gets 1 share.

- A villager who may be relocated for losing his/her house will be compensated either by cash or with a new house according to his/her preference. Those who choose to get compensated with a new house will get it at a size 1.1 to 1.3 times the one they lost, and those who prefer cash may get around RMB 10,000 for each square metre, with adaption to the price changes.
- The developer will rebuild some real estate for the village, including the office of the village administration committee, a primary school, a kindergarten, stores, and so on. Historical or religious places, such as ancestral temples, religious temples, are also to be remade or shifted.

Thirdly, the sharing of developmental benefits has been included in the project. This is indicated in the distribution and the proposed usages of the land acquired for the remake project. As specified in Table 5.3, out of the 2,159 mu of land reconstructed, 1,051 mu (land no. 1-A) is provided for the relocation and resettlement of the villagers, and 63.7 mu (land no. 1-B) remains under their control as reserved land. For public

TABLE 5.3 Land Uses in the Remake Project

	Scale of Land (Mu)	Usage
Land No. 1-A being reconstructed for villagers	1051	For resettlement and relocation
Land No. 1-B reserved for village	64	Reserved land
Land No. 2 for infrastructures	353	For roads, green belts, river surge, etc.
Land No. 3 for financing	692	Land sold to real estate as financial source of the whole project
Total	2159	

Source: Urban Redevelopment Authority of Foshan New Town, the Dadun Village Committee, Dadun Village Economic Cooperative, ‘Lecongzhen Daduncun Zhengcun Gaizao Shishifangan’ (乐从镇大墩村整村改造实施方案) [‘Implementation Plan of the Dadun Village Remake Project’] (2014).

infrastructure which is under the administration of the government, 353 mu land (land no. 2) is used. In order to finance all the expenses of the project, 692 mu land (land no. 3) is sold in the land market to real estate developers for residential and commercial development. Therefore, the distribution of land among the three stakeholders (the commune, local government, and developers) comes to the ratio of 51.6 per cent: 16.4 per cent: 32 per cent.

The sharing and exchange of the costs and benefits in the project are given in Table 5.4. The Dadun commune submits land no. 2 and land no. 3 to the local government and developers respectively, and gets the lucrative compensation package mentioned previously including 51.6 per cent of the land it originally holds. The local government supports the project with the urban renewal plan, quotas for construction land, and the land-use fees which constitute a major part of the land revenue, and in return, gets the land for public infrastructure and also collects a real estate development tax. More importantly, the success of the remake project changes the landscape of the city, and attracts a large amount of further investment. The ambitious development plan of the city is then accomplished. For real estate developers, the amount they paid for financing the land is utilized for compensation packages to the villagers. In return, all the construction works involved in the project will be delivered to them, which will increase their profits.

The total expenditure of the remake project was RMB 4.17 billion. In 2016, it was reported that two pieces of land of 195.7 mu were sold at a price of RMB 2 billion, or about 50 per cent of the whole expense of the project with only 28 per cent of the financing land. Undoubtedly the project does not have any financial difficulties. In an interview with local villagers, it was revealed that around RMB 158,000/share has been distributed to villagers, which is around

TABLE 5.4 Earning and Cost in the Dadun Remake Project

	Give	Get
Commune	Land 2 and 3/Tax	Compensation package, including land no. 1
Government	Plan/Quota/Revenue	Tax/Land no. 2
Developers	Compensation Package/Tax	Land no. 3/Development plan

52.7 per cent of the promised one-off dividend.²² With the proceeds of the sale of the financing land, the compensation package will be delivered in the near future. This project is embraced by the local commune, especially the older generation that enjoys three shares with a dividend tantamount to RMB 900,000. With this amount they will never be dependent on their younger generation economically, and consequently will be more confident of their future. So they are eager for the quick implementation, and earnest supporters of the remake project. This contrasts sharply with other cases of land acquisition in China, where the older generation's livelihood relies far more on land than that of the younger ones, and makes them the core resistant group to the land acquisition exercise of the government.²³

LAND MARKETS IN LAND ACQUISITION

As discussed above, the role of land markets is of extreme significance in land acquisition as compensations are normally paid in accordance with some proportion of the current or future potential market price. In the absence of a well-functioning land market, a reliable assessment of land prices cannot be made, and it thus creates a breeding ground for discontent of the landowners, and disputes between the state and the land-losers for their different views on the right price of the land acquired. The principle of fair compensation as a key element for smooth and just land acquisition is difficult to realize in such circumstances. This scenario is prevailing in developing societies like India and China due to the non-existence or weak functioning of land markets. Land acquisition efforts by the government have led to many cases of protest, and even violent conflicts between the landowners and acquiring authorities. However, the two cases discussed in this chapter, namely, Sanand, Gujarat and Foshan in Guangdong, present a contrasting picture. They demonstrate how innovative measures taken

²² Interviews conducted at Dadun village, 28 April 2017.

²³ Yaoyun Feng, *Chongtu de Chixxing: S Cun Nongmin Yu Zhengfu Zhengdi Jiufen Wenti Yanjiu* (冲突的持续性：S村农民与政府征地纠纷问题研究) [The Continuation of Conflict: A Study on Disputes on Land Expropriation between the Peasants and the Government in S Countryside] (PhD diss., Jilin University, 2013).

by the local governments to procure land could contribute to the development of a functioning land market. This land market, in turn, paves the way for smooth and hassle-free land acquisition by the local governments for developmental activities.

In Sanand, for instance, firstly the GIDC entrusted CEPT University with the mission of evaluating the market value of each piece of land, which determined the compensation in land acquisition. Hence it in fact forgoes the prevailing practice of fixing a price based on the last three years' transactions, which used to be much lower than the actual worth and failed to take into consideration many sensitive parameters, like location of the land, its accessibility to infrastructure, its annual output, and so on. A compensation calculated on its actual worth meets the standard of fair compensation as practiced in more developed societies where a sophisticated land market prevails. Secondly, the acquisition process was carried out through direct negotiations on a case-by-case basis where each household's concerns were respected, and instead of compulsory acquisition, land was procured through the consent of its owners and hence dramatically lessened their grievances. Thirdly, an effective land market also encourages land-losers to reinvest in new land, which enforces their economic strength as well as strengthens land markets. As shown in the Sanand case, the money received in compensation by the land-owners was spent on creating more capital either by investing in new land or developing new livelihood tools. Thus their living standards were improved.

As for the Foshan New Town project, as shown above, the core strategy is to 'bring the local commune into the land market'. This measure reverses the national land acquisition regime where the local commune is excluded from the land market. If the GIDC's practice in Sanand was aimed to improve the land market mechanism for the state to provide appropriate compensation (see Figure 5.2), what the local government in Foshan managed to achieve is to provide the local commune opportunities to become a real seller in the primary land markets.

Firstly, direct negotiations are allowed to take place between the local commune and the developers. The government has not interfered during the process of setting the land price. The final agreement is signed by both parties. This practice is unique, for in the rest of China,

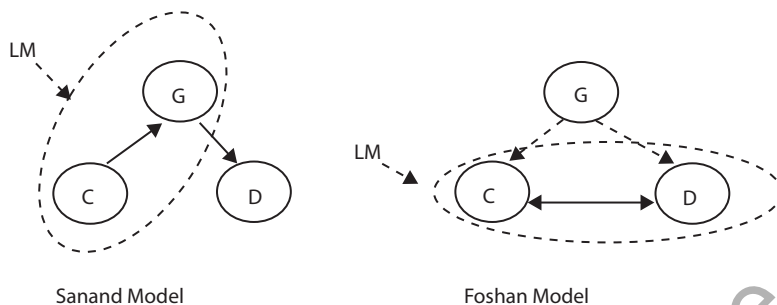


FIGURE 5.2 Innovation in Land Acquisition in Sanand and Foshan

Source: Author.

Note: C: local commune in China or household whose land is acquired in India; G: local government; D: developers; and LM: land market.

land is acquired by the government and subsequently transferred to developers in exchange for a large amount of land transferring fees. However, under the Foshan model, the structure of land acquisition and the primary land market in China are totally revised. The local commune becomes an active player in the primary land market, and reverses the legal monopoly of governments. This practice changes the very nature of land acquisition in China.

Secondly, in the Foshan project, the local government skilfully provides numerous forms of administrative support to avoid any legal violation of the current land acquisition regime. For instance, it gave quotas for construction land to the local commune, which is strictly required for a legal land-use change from agricultural land to other uses in China. Also, it nominally acquires the land and transfers it to developers as it generally happens all over China. But the price is actually negotiated by the commune, which collectively owns the land, and the developer. In addition, while the local government did receive the land transferring fee after rendering the financing land to developers, it returned 50 per cent of the land transferring fee to the local commune after charging some administrative fees and taxes. While the land acquisition is still in place formally in this case, numerous innovative measures have been adopted in the Foshan New Town project, which succeeded in overcoming the flaws of the current land acquisition regime.

Thirdly, a benefit-sharing mechanism was introduced in this remake project. Similar to land pooling in Gujarat,²⁴ the local commune gets the majority (around 52 per cent) of the developed land, and submits 16 per cent of their land for public infrastructure and 32 per cent to land developers. Furthermore, the compensation package is attractive and results in a smooth process. Without these deliberate and creative revisions of the current land acquisition regime, particularly on the reformation of the primary land market in China, this positive-sum game could not have been achieved.

THE MARKET MECHANISM AND INNOVATIONS OF LOCAL AUTHORITIES IN LAND ACQUISITION

Much of the land market in both India and China is weak or absent. It is partly due to the strict restrictions on land transitions such as land ceiling regulation, and partly because of the non-capitalization of land in both countries. As for China, the dual-track system separates the two levels of the land market, and consequently creates a large land value gap between agricultural and developed land. However, without the barometer of a land market, fair compensation, which is of great importance for just land acquisition, cannot materialize. Disputes and conflicts unavoidably occur as a result of the absence of consensus on a fair compensation.

On the other hand, with a workable land market, land transactions can be conducted smoothly. Many by-products arise in an efficient land market. For instance, landowners' livelihood no longer solely depends on land, they can invest, or more precisely speculate, rather than only cultivate. Land thus becomes a good or capital. Peasants are no more bound by land. The separation of land and its owners does not necessarily lead to the loss of livelihood or impoverishment of the latter. As in the case of Sanand, peasants end up possessing more land than they had earlier. In Dadun village of Foshan, villagers have given up agricultural activities and used their lands for non-agricultural purposes since the end of the 1990s. Half of the population living in this

²⁴ Mathur, 'Use of Land Pooling and Reconstitution for Urban Development'.

village are migrants from outside the village, who do not have any ownership of the land and work in factories or companies nearby. So the acquisition does not threaten any agricultural activities. Rather they have the rights either to get an equal size or even larger land in the ratio of 1.1:1 against the land acquired or to get cash compensation as per the real market price. In short, the existence of a land market enables peasants in both countries to get fair compensation, and to improve their situation by using the compensation.

However, to build and perfect the functioning of the land market in developing societies, the support of local governments with innovative policy instruments is of great relevance. In some regions of India and China, local governments make ingenious and creative arrangements. In Sanand, the GIDC introduced an independent and reputed agent (CEPT University) to determine the land price, and acquired land through direction negotiation with individual owners. In the Dadun remake project in Foshan, the local government deliberately revised the current national regime by providing opportunities for the local commune to enter the land market. There were several more innovations, as discussed above. All these measures have helped reverse the discrimination against rural communes in the current land regime in China, and against agricultural landowners in rural India.

However, the relationship between the current land regime and local creative innovations is complex and deserves more research. In both cases, the current land regimes have not been completely put aside by local governments. The basic structure of the current land regime is pro forma respected and adhered to. In Sanand, land was still acquired or bought by the representative agency of the local government, the GIDC. The compensation was paid according to the market value as mandated in the LAA. It is the GIDC rather than the local commune who built the industrial estate and leased land to private firms. The basic legal characteristics of acquisition remained untouched in Sanand. In the Dadun remake project, similar institutional conditions exist. The basic features of the national land acquisition regulation set by the LAL have been followed as in other regions. The difference lies only in the sense that the local government modified the current regime. Rather than changing the basic elements of the current regime, what the local government has done is to improve it with delicate provisions of new policy instruments.

The analysis of the two cases of Dadun and Sanand indicates that multiple factors contribute to the success of land acquisition by the government. These include local innovative measures, an entrepreneurial culture, a business-friendly policy environment, large proportion of immigrant population, and so on. However, local ingenuity in creatively implementing national regimes with adaptations to local conditions is of great significance. Without a careful and deliberate redesign of the land acquisition regime, the other factors may not be able to generate a smooth land acquisition. As we know, when new policy instruments were not adopted, land acquisition encountered resistance in other similar places when the local authorities were conservative with their policy.²⁵

The innovative measures adopted by the local authorities in the two cases revolve around improving the market mechanism in land acquisition. As shown above, the market mechanism is generally inadequate during land acquisition in both countries. Compensation is not delivered according to the true market value. As a result, parting with a piece of land usually leads to the deprivation of livelihoods of some peasants. The landowners in India, or the land property right owners in case of China, are not only economically reliant on land, but are also socially and psychologically attached to it. All this contributes to their reluctance to give up land, and therefore leads to conflicts between them and the authorities.

Another noteworthy aspect is that the local authorities deliberately and cautiously introduce the innovative measures to keep them in line with the current national regimes, particularly to avoid any breach of

²⁵ For land acquisition cases in Kerala, see K.P. Chitra, *Politics of Land Acquisition and Conversion: With Reference to Two Development Projects in Kerala* (PhD diss., Tata Institute of Social Work, 2013); in Guandong, there is the well-known land acquisition case of Wukan, see Xuefei Ren, 'Land Acquisition, Rural Protests, and the Local State in China and India', *Environment and Planning* 35, no. 1 (2017): 25–41; for Gujarat, see Lancy Lobo and Shashikant Kumar, *Land Acquisition, Displacement and Resettlement in Gujarat 1947–2004* (New Delhi: Sage, 2009); for Fujian, read Lin, 'Bei Zhengdi Nongmin Chayixing Shouchang Yiyuan Yanjiu'.

the latter. The measures adopted are to supplement, rather than override the key features of the current regimes. It is a smart development approach, which avoids the possible accusation of violation of the current national regimes, and therefore legalizes their innovation and makes it more sustainable.

In sum, the secret of the success of the land acquisition in both cases lies in the local authorities' innovative measures to utilize the land market mechanism. The understanding of the importance of the market mechanism and its skilful introduction into the land acquisition process to supplement the institutional weakness of the current regimes results in smooth land acquisition, and brings about a win-win situation in these two cases. Nevertheless, this analysis does not provide any specific suggestions for institutional reform to current regimes; it instead stresses that local authorities can improve the regimes with a focus on using the market mechanism as per their own individual situations.

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