



Linking institutional function with form: Distributional dynamics, disequilibrium, and rural land shareholding in China

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ABSTRACT

The “Credibility Thesis” of institutional analysis challenges the assumed relationship between institutional form and performance and argues that institutional forms follow institutional functions. An understudied issue concerns how changing institutional credibility (expression of the function) affects the evolution of institutions (the form). This article highlights the distributive function of institutions and examines how distributional dynamics shape institutional change when the credibility of an institution is problematic. By focusing on a major institutional innovation in China, the evolution of rural land shareholding, this article analyzes a unique distributional dynamic of land benefits that combines central institutional openings with local experiments. When institutional credibility is challenged, this central-local distributional dynamic engenders continuous changes in institutional form. Critically, this endogenous process of institutional change features dynamic disequilibrium rather than static or punctuated equilibrium.

1. Introduction

Existing studies on the institutional foundation for development overemphasize the *form* of institutions while underestimating the *function* of institutions. The “neo-liberal” or the “neo-classical” theories postulate that “institutional change is characterized by equilibrium” and “the form of institutions (i.e. formal, secure and private property rights) is imperative for development and growth” (Ho, 2016, p. 1124; also see Chang, 2011). The credibility thesis challenges the myth of institutional forms by highlighting the relevance of institutional function and credibility. According to the credibility thesis (Ho, 2014, 2017), institutional forms follow institutional functions. Differently put, “institutional function presides over form; the former can be expressed by its credibility, that is, the perceived social support at a given time and space” (Ho, 2014, pp. 13–14). To be specific, institutional credibility is “the collective expression of the functionality of institutions, or, more specifically, the reflection of actors’ cumulative perceptions of endogenously emerged institutions as a common arrangement” (Ho, 2014, p. 16).

What remains underexplored is how changing institutional credibility (the function) affects the evolution of institutions (the form). Institutional forms and functions are not completely disconnected.

Instead, changes in the function of an institution (a proxy measurement of institutional credibility) can bring about changes in institutional forms. Particularly, the distributive function of institutions is of relevance. The distribution of power, honor, status, and resources has been a central function for institutional design and evolution. By enabling and constraining human behavior, institutions channel the distribution of these valuable matters. In this sense, most institutions have profound distributive consequences (Knight, 1992), and “credibility is undoubtedly related to distributional conflict” (Ho, 2017, p. 88).

This article aims to address these questions: how does the changing distributive function of institutions (expressed by institutional credibility) influence the evolution of institutional forms? How do distributional dynamics shape institutional change when institutional credibility is low or problematic?

To answer these questions, this article analyzes a unique distributional dynamic and examines how it addresses the credibility problem of the formal land regime and affects the evolution of the rural land shareholding system (RLS hereafter) in China. Echoing the theorem on dynamic disequilibrium (Ho, 2018a), this article finds that the land tenure regime in China is *constantly* changed overtime because its distributive function has never been sufficiently satisfying for stakeholders and its credibility has been exposed to continuous challenge.

Abbreviations: CCP, Chinese Communist Party; HRS, Household Responsibility System; LAL, Land Administration Law; PRC, People’s Republic of China; RLS, Rural land shareholding; SEZ, Special Economic Zone; TVEs, township and village enterprises.

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China's unique distributional dynamic of land benefits is characterized by the interactions between the *institutional openings* provided by the central government and the *institutional experiments* initiated by local governments and villagers. This central-local dynamic facilitated a more balanced distribution of land benefits among the central government, local governments, and villagers by distributing the lion's share of the incremental value of the land to villagers and thus established a higher-level of institutional credibility. This distributional dynamic has brought about significant changes in the forms of institutions: the emergence and evolution of the RLS, a more inclusive variant of the formal land institution in China.

This article takes Nanhai in Guangdong province as a case-study to illustrate the evolution of the RLS. Nanhai, a county in Guangdong and then becoming a district of Foshan city, is a pioneer and model in the experimentation with the RLS. For the development of RLS, Nanhai is an *extreme, yet, illustrative case* because of its early initiation, relatively mature operation, and timely meeting of problems. Concerning the formal land institutions at the national level, Nanhai is also a prominently, *deviant case* because it developed informal rules in land use, challenging the central state's formal distributive institutions. To supplement the case study and situate Nanhai in a larger context, this article also introduces the spread and distribution of the RLS across China. It shows that Nanhai is not an isolated case and the development of the RLS may constitute a significant solution that counterbalances the decreasing credibility of the formal land institution.

The author has conducted intensive fieldwork in Nanhai in July 2016 and subsequently closely followed its land-use policy. The author interviewed about 50 key informants representing different stakeholders including local officials, scholars, businessmen, villagers, and village cadres. The author participated in an internal conference on the design, implementation, and refinement of the experimental scheme after Nanhai was chosen as one of the 33 experimental sites by the central government in 2015. The author also referred to numerous secondary sources, such as the Nanhai Yearbooks (1994–2014), Nanhai Annals (1979–2002), and the Gazetteers on Land Resources (*guotu ziyuan zhi*). These records have helped to trace the evolution of land-use policies in Nanhai. The author visited the Nanhai Office of the Leadership Team for the Pilot on Rural Land Tenure and obtained important policy documents and internal drafts regarding the land reform. Lastly, academic books by local officials and other public reports on land use in Nanhai also constitute important sources of data.

This research makes two main contributions to the study of institutional change and property rights in land use. First, it highlights the importance of distributional function and dynamics for understanding institutional credibility and change. This is relevant as the way in which the struggle for distribution affects institutional function/credibility, and its change remains underexamined. Second, this article explains the evolution of the RLS in China from the perspective of institutional credibility, illustrating how institutional forms follow institutional functions and how the prediction of dynamic disequilibrium of the credibility thesis is evidenced by the constant changes in the RLS in China.

This article proceeds as follows. The second section reviews the literature on institutional credibility and change and reveals the relative dearth of research on distributional dynamics and its effects on institutional credibility and change. The third section outlines the institutional background of the land distribution in China and demonstrates its low degree of institutional credibility. Fourth, this article presents a detailed case-study examining the rise of the RLS in Nanhai from the perspective of distributive politics, while discussing how never-ending distributional dynamics engendered changing forms of the RLS in Nanhai. The fifth part provides an overview of the RLS across China. The final part is the conclusion and discussion.

1.1. Credibility, distributional dynamics, and institutional change

The mainstream neo-classical theories (including New Institutional Economics) meet several problems when it comes to explaining institutional change. First, they focus on external (exogenous) shocks while shying away from examining endogenous sources of institutional change (Mahoney and Thelen, 2010, pp. 5–7). For example, in Douglass North's explanation of institutional change, "the principal exogenous variables remained changes in relative prices, including technological and demographic factors" (Levi and Weingast, 2019, p. 214, see also North, 1990). In another case, Acemoglu and Robinson (2012) tried to provide an answer to the institutional differences among nations. Yet, their answer focuses on the interplay between critical junctures and institutional drift, with the former usually originating from external shocks. The basic problem for the neo-classical approach is related to a view of institutions as coordinating mechanisms that sustain equilibria (Shepsle, 1989). As such, "A self-enforcing institution is one in which each player's behavior is a best response. The inescapable conclusion is that changes in self-enforcing institutions must have an exogenous origin" (Greif and Laitin, 2004, p. 633; see also Bates et al., 1998, p. 8).¹

The neo-classical theories postulate that institutions can be designed by intention (e.g. North, 1990, p. 3). Again, this postulate attributes institutional change to external agency's design. For Ho (2017, p. 56), "the preclusion of exogenously (and thus also intentionally) shaped and enforced institutions inevitably leads to the issue of autonomy, and for that reason social scientists tabled the ultimate question: do actors have a choice at all, or does the design of institutions ultimately escape human intentionality."

The second problem with the neo-classical theories is their belief in the teleological form of institutions and their "inability to clearly distinguish between the forms and functions of institutions" (Chang, 2007, p. 19). The neo-classical tradition postulates that the form of institutions, such as formal, privatized, and secure property rights, is a precondition for sustained growth (e.g., Coase, 1960; Alchian and Demsetz, 1973). For Ho (2014, p. 4), "what ultimately determines the performance of institutions is not their form in terms of formality, privatization, or security, but their spatially and temporally defined function." Institutional credibility, as a proxy measurement of institutional function (Ho, 2014, p. 16), should not be taken for granted.

Third, neo-classical institutionalists see institutions as equilibria, and their analysis generally involves *static* or, at most, *punctuated* equilibrium models of institutional change (Mahoney, 2000, p. 519; Greif and Laitin, 2004). This view of institutions is insufficient to capture institutional dynamics because "it does not see that empirical reality could also be characterized by an ever-present force of change" (Ho, 2017, p. 121). In a *dynamic* equilibrium, various factors "can change with similar proportion but at unchanged ratios, causing the institution to be in flux, yet, over time, in a state of consecutive equilibria" (Ho, 2017, p. 122). Denying this notion of static equilibrium, Ho (2017, 2018a) developed a Theorem on Dynamic Disequilibrium along two dimensions. First, on dynamism, it presumes that "institutions are in perpetual flux moving onward from one state to the other;" Second, on non-equilibrium, it assumes that "institutional change never achieves a state of balance between actors' interests, power, and resources, as tension and conflict are evident in any institutional arrangement" (Ho, 2017, pp. 123–124).

Historical institutionalism in political science also traditionally stressed continuity over change. Numerous works on path dependence have been organized around explaining the persistence of institutions (Hall and Taylor, 1996). To explain institutional change, historical institutionalists usually call attention to so-called "critical junctures," which are often created by exogenous shocks (Pierson, 2004; Thelen,

¹ Greif and Laitin's (2004) work represent an important effort to address this problem. However, their solution is to redefine some of the exogenous parameters as endogenous variables (i.e., "quasi-parameters").

2004). Therefore, historical institutionalists fall back on a discontinuous mode of change in which enduring historical pathways in terms of path dependence are periodically punctuated by “critical junctures” (Capocchia and Kelemen, 2007; Mahoney and Thelen, 2010, p. 7).

In contrast to the neoclassical assumptions of institutions that highlight the primacy of intentional design, equilibrium, and institutional forms, Ho (2016, p. 1124) proposes alternative postulates, arguing that “institutions are the resultant of *endogenous, unintentional* development... institutional change is driven by *disequilibrium*... institutional form is subordinate to function.” For Ho (2018b, p. 645), institutional function should be interpreted from an *evolutionary* perspective and it can be defined as “the role of a set of rules as it has endogenously evolved in continuous adaption to the environment.”

According to the credibility thesis, institutional credibility has three critical dimensions (Ho, 2017, pp. 88–90). First, credibility is a theoretical continuum, ranging from “fully” or “partially credible” to “non-credible” or even “empty” institutions. Second, credibility relates to *aggregate* perceptions of institutions as a common arrangement, and one should see institutions as the “autonomous results of endogenous power differences and interactions between actors.” The perceptions of actors’ property rights can be measured by the FAT institutional framework, a comparison between the Formal (What property rights should one enjoy?), the Actual (What property rights does one have?), and the Targeted institutions (What property rights would one desire?) (Ho, 2017, p. 15–16).² Third, the prime interest of institutional analysis is the current institutional function. Ho (2016) also developed a methodology of the study of institutional credibility, including the process, scales, measurement, and data sources.³

Institutional credibility is different from other ideational foundations of institutions, such as beliefs, mental constructs, and institutional legitimacy. For North (1990, 2005), both the beliefs and mental constructs of the players affect their perception and recognition of institutions and contexts. Another normative foundation is institutional legitimacy. It is “conceived as a set of normative incentives compelling people to uphold this institution and providing incentives for trust and successful institutional change” (Wang and Ching, 2013, p. 514). Unlike institutional legitimacy and beliefs that involve moral consideration, institutional credibility is largely a *function-oriented* concept. While mental constructs are cognitive factors that shape people’s perceptions, institutional credibility refers to the subjective evaluation of institutional function.

The credibility thesis has been tested through an agent-based model (Ghorbani et al., 2021), and institutional analysis from the perspective of the credibility thesis has attracted many follow-up studies. The credibility thesis has been applied to a variety of research areas such as property rights (Fold et al., 2018), labor institutions (Miyamura, 2016), natural resources (Mollinga, 2016), financial institutions (Marois and Güngen, 2016; Monkkonen, 2016), climate change (Rogge and Dütschke, 2018), and informality (Zhang, 2018; Chen, 2020).

Yet, the relationship between institutional function and form is still underexplored, and many issues remain incompletely addressed. For example, Davy (2018) asked “what type of form follows the function of

property.” Another important issue concerns what mechanisms contribute to changes in institutional form when there are changes in institutional function? After all, the changed function does not automatically lead to institutional change. Something appears to be still missing between institutional function and form.

This article develops a new analytic framework to unpack the black box of the transition from institutional function to institutional form, as illustrated by Fig. 1. This framework starts with the credibility problem of an institution. Few institutions are fully credible since distributional conflict is an integral part of any property rights arrangement and those losing out in the game continuously try to challenge the existing distributive outcome. In other words, the credibility of an institution is often problematic and is incessantly challenged by those with fewer resources and power.

This article argues that distributional dynamics can bridge the gap between institutional function/credibility and institutional form. Once the credibility of an institution is challenged, stakeholders engage in a constant struggle for redistribution. The so-called “distributional dynamics” may involve numerous types of power struggle and endogenous interactions, which is open to further research. This article discusses a distributional dynamic: the one between central and local government over land distribution. This central-local distributional dynamic combines central *institutional openings* with local *institutional experiments*, and significantly increases the involvement of villagers in the distribution of land value. For central state leaders, ordaining (i.e. commanding what must be done) is not the only solution to the low degree of institutional credibility.⁴ Central-level leaders may also provide institutional openings by relaxing the enforcement of formal rules, or by tolerating and even formalizing certain informal practices. To release the tensions, especially the grievance of villagers, derived from the dual-land system with low-level credibility, central leaders in China have opened interstices to some localities and allowed them to experiment with more socially inclusive modes of land development that could also benefit villagers.

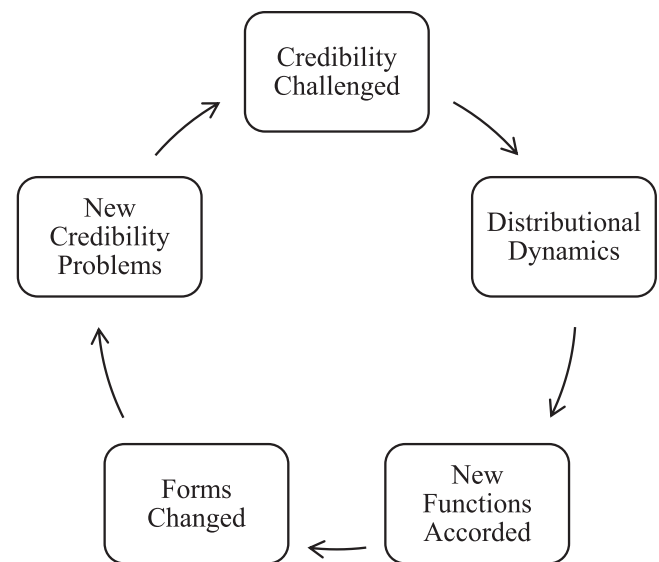


Fig. 1. Analytical Framework on the Transition between Institutional Function and Form.

Source: Designed by the author.

² The FAT Institutional Framework is based on the premise that the perceptual differences between the Formal, Actual and Targeted is a measure of credibility, which has been tested and validated in various studies (Wang and Liu, 2022; Fan et al., 2021; Arvanitidis and Papagiannitsis, 2020; Sun and Ho, 2018; Nor-Hisham and Ho, 2016).

³ Apart from the FAT Institutional Framework, another tool for the measurement of institutional credibility concerns the Conflict Analysis Model (CAM), which aims for a holistic understanding of conflict as an expression of credibility by examining factors as the intensity, duration, timing, source, actors and nature of conflict. To date, the CAM has been applied in qualitative and quantitative studies of land, housing, and natural resources (You et al., 2021; Fan et al., 2019; Krul et al., 2020; Yang and Ho, 2019).

⁴ Depending on varying levels of credibility, a “Credibility Scales and Intervention” checklist provides several options for governmental interventions, including ordaining, prohibiting, facilitating, co-opting, and condoning (Ho, 2016, pp. 1137–1141).

Meanwhile, local officials and villagers initiated informal rules of land development even ahead of central openings. Often, as evidenced by some studies (Heilmann, 2008; Tsai, 2006; Li, 2019), local governments are the initiators or supporters of informal rules that erode the authority of formal institutions. This central-local dynamic brings about changes in institutional form, i.e. has given rise to the RLS. As a result, the central government, local governments, and villagers have forged a more credible distributional coalition and generated an important local variant of distributive institutions in land use.

The analytic framework put forward here is predicated upon the Theorem on Dynamic Disequilibrium, which conceptualizes “institutional change as an endogenous, ever-changing and conflicting process in which no stable status is reached” (Ho, 2018a, p. 865). As demonstrated by the circle in Fig. 1, with a credibility problem, distributional dynamics accord new functions to an institution and cause changes in the form of property rights in land, which, in turn, may create new credibility problems, followed by another round of distributional conflicts and institutional change. This is the essence of the dynamic disequilibrium that explains and propels the evolution of the RLS.

1.2. State-led industrialization and urban-biased land use

Distribution has been a major theme throughout the evolution of the land tenure regime in China. In land use, peasants not only have paid the price for China's catching-up industrialization in the Maoist era but also have been mostly excluded from urban land market in the reform era. Therefore, the credibility of the formal land regime has been challenged.

1.2.1. Industrialization at the cost of peasants under Mao

Soon after the Chinese Communist Party (CCP) defeated the Nationalists in the civil war and established the People's Republic of China (PRC) in 1949, the central government introduced a radical rural land reform in 1950. The new regime abolished the traditional landlord-tenant system and redistributed the landlords' land to peasants who were the crucial supporters of the communist revolution. By 1953, 300 million landless peasants in China were rewarded with 700 million *mu* of land with private ownership (Saich, 2015, p. 18).⁵ However, the “honeymoon period” for peasants quickly ended in 1956 as the Party-state began to squeeze rural land resources to feed the national industrialization program in urban China. The socialist collectivization movement replaced the private ownership of rural land with collective ownership.

Under Mao, China's land-use policy served the “Big Push industrialization” at the cost of peasants. This development strategy “gave overwhelming priority to channeling the maximum feasible investment into heavy industry” (Naughton, 2006, p. 55). To channel resources into industrialization, the government retook peasants' private land and forced them to join agricultural collectives, which took over ownership of rural land and management of the farms. The Chinese government tightly controlled agricultural production and sales by establishing compulsory procurement of grain from peasants and depressing the prices of key agricultural goods. As Walder (2015, p. 57) summarized, this “Soviet-style collective agriculture was designed to extract grain in large volumes and at low prices in order to fuel rapid industrial development in cities.”

1.2.2. Exclusive distribution in the reform era

In the early 1980s, China abandoned the communal system and adopted the Household Responsibility System (HRS) in rural land tenure. Under the HRS, peasants were granted land-use rights while the ownership went to the newly established collectives (i.e. administrative villages and village small groups). Equally important, China developed land markets in the urban areas to facilitate industrialization and

urbanization. However, the distribution of land benefits in the reform era is still, by and large, urban-biased and exclusive of peasants.⁶

During the reform era, the development of the land market in cities effectively excludes peasants from sharing the appreciated land value. For peasants, the most exclusive regulation is that the state monopolizes the legal power of converting rural land (including agricultural, construction, and unused land) into urban state-owned construction land. Rural land is not allowed to enter the urban land market without formal state expropriation.⁷ Under this arrangement, local governments have been privileged to “expropriate and sell” the rural land for revenue. On the one hand, peasants are subject to state expropriation, while their land rights are legally encumbered and not allowed to enter the significantly more lucrative urban land market. On the other hand, local governments, as the sole legal broker between the urban and rural land markets, can seize peasants' land against low compensation and subsequently, sell the use rights of converted land at a substantially higher price in the urban market and collect a huge amount of land conveyance fee (*churang jin*).

Scholars coined the term, urban-biased land development policy, to describe the phenomenon of local governments that “expropriate rural land with the inadequate compensation and use a considerable share of net land revenue to develop urban areas instead of rural areas” (Wang et al., 2019, p. 1). Hsing (2010, p. 7) noted that urbanization is an integral part of local states and shapes the dynamics of local states. China's rapid urbanization has converted large amounts of farmland into non-agricultural use and produced millions of landless peasants. From 1987–2001, converted farmland reached 33.95 million *mu* (2.26 million hectares), with 34 million peasants losing their farmland forever (Han, 2009, p. 19). Up to 2009, if the illegal land occupation is included, there were at least 40–50 million landless peasants (Han, 2009, pp. 19–20).

From the above, it becomes obvious that the land tenure system provides local government with a major source of local revenue. According to law, land conveyance fees are divided between local governments and the central government with local governments receiving as much as 70% (Lin, 2009, p. 101). In this sense, “the winners appear to be municipal, county, and township governments and the losers are ironically the central state and individual farmers, both original owners of China's land” (Lin, 2009, p. 101). Land revenue, including conveyance fees and other taxes and fees related to land use, constitutes the lion's share of the revenue for local governments (Xu, 2019), and constitutes a “land revenue regime” (Zhan, 2015).

Under this institutional arrangement, land financing has been a

⁶ The fundamental institutional arrangements were codified in the Land Administration Law (LAL) of the PRC, adopted in 1986, and subsequently revised over the years, the most recent time in 2019. The LAL and other related laws, regulations, and policies constitute a complex legal system of land tenure.

⁷ The separation of usage rights from ownership is a prerequisite of the development of the land market. For state land in urban areas, land use rights can be distributed by traditional state allocation or by conveyance (*churang*). State allocation applies to state units while land conveyance is used to dispense land use rights to commercial users. Allocation and conveyance are the two sources of land use rights in the “primary market” (*yiji shichang*). The first case of land conveyance occurred in Shenzhen, the first Special Economic Zone (SEZ) established in 1980. A big obstacle facing the foreign investors at the time was how to get land in socialist China. Central authorities allowed the Shenzhen government to separate the land use rights from the state ownership and sell the usage rights to commercial entities. The first piece of land was auctioned on December 1, 1987. From then on, a distinct market of land use rights emerged in urban China. There are three forms of state conveyance: public tender (*zhaobiao*), auction (*paimai*) and listing (*guapai*). The time limits vary by use, 70 years for residential land, 50 years for industrial land, and 40 years for commercial land. Also, once the use rights of the state-owned land are acquired through conveyance, land users can transfer or rent out to others, or just use their rights as collateral in the “secondary market” (*erji shichang*). In state conveyance, the price usually includes the expropriation costs of the land, various stipulated land fees, the conveyance fee (*churang jin*), and others.

⁵ Traditional unit of measurement with 1 *mu* approximately equivalent to 1/15 hectare.

driving force for land-centered urbanization in China (Ye and Wu, 2014). With revenues in sight, urban officials have a strong incentive to “expand their boundaries so that they can incorporate more land for sale” (Saich, 2015, p. 239); meanwhile, they are reluctant to offer full urban citizenship to migrant peasants or landless peasants in cities as it burdens local revenue. It can thus be seen that during this distributive wave, peasants were not only excluded from the incremental value of land development but also deprived of access to urban citizenship. In this sense, China’s urbanization is characterized by the “urbanization of land” rather than the “urbanization of people”.

However, the above-mentioned general conceptualization of the distribution of land benefits is not indubitable. First, subnational variation has been a prominent feature of China’s political economy (Rithmire, 2014; Zhang, 2020). In land development, land takings mainly occurred in suburban areas of cities while most remote villages have been immune to the expropriation (Han, 2009), and urban governments exhibited varying levels of control over land (Rithmire, 2015). Second, this distributive regime is not monolithic. Formal and informal local experiments carved out more inclusive pathways to land distribution, such as illegal land development in terms of “small property rights housing” in numerous villages (Chen, 2020; Paik and Lee, 2012), and transaction of land development rights in Chongqing, Chengdu, and Zhejiang (Cai, 2016; Chen and Tang, 2020; Wang et al., 2009), and the rural land shareholding system in Nanhai. These experiments deviated from the formal land regime, avoided state expropriation, and allowed peasants to bring their land directly into the urban market. Third, the cost of land taking for local governments increased overtime, casting doubts on the sustainability of the land-based development model. Since 2012, compensation costs for land taking accounted for 60.2% of total land revenue (Liu, 2018, p. 259). Fourth, local governments invested heavily in the conversion from rural land to state land. To make it ready for transfer in the urban primary land market, local governments leveled the “raw land” and provided basic facilities (i.e. water, electricity, gas, paved roads). Government investment is an indispensable contribution to the appreciation of land value. Finally, not all peasants thought they were victims of land takings. Some have received a huge amount of compensation and became millionaires; some wished to be expropriated (Paik and Lee, 2012); and some obtained extra benefits by making “troubles” to local governments in terms of protesting (O’Brien and Li, 2006; Chen, 2009).

For institutional change, what matters is not the “real” distributive mode but how peasants perceive the distribution. Differently worded, institutional credibility of the land distribution is even more important than the distributive model per se.

1.2.3. Declining credibility of the formal land regime

For a great proportion of peasants, this dual-land system has hardly been credible, which is reflected through conflict among stakeholders, including its source, frequency, outcome, timing, intensity, duration, and nature (Ho, 2016, p. 1133; Ho, 2017, p. 96). In effect, “the lower the credibility, the higher the level of conflict” (Ho, 2017, p. 96), and those who were affected by land expropriation and house demolition often engaged in individual or collective petitioning. Individually, they engage in various forms of so-called “abnormal petitioning” including pestering petitioning, disruptive petitioning, skip-level petitioning, petitioning Beijing, and even petitioning foreigners. Collectively, affected people participate in mass incidents, including demonstrations, marches, sit-ins, group complaints, blocking roads and railways, and more (O’Brien and Li, 2006; Cai, 2010; Chen, 2012). In the past several decades, land grabs have been the primary factor that accounted for rural unrest (Heurlin, 2016) and declining credibility of land rights (Pils, 2016; Zeuthen, 2018).

According to research by the Chinese Academy of Social Sciences, nearly half of the thousands of mass protests annually was triggered by land expropriations (Lu et al., 2012, pp. 13–14). An event dataset by Ong (2015) found that land-related grievances and conflicts accounted for

nearly 40% of 2528 cases over 2003–2012. In fact, the scale of social protest would be significantly larger when accounting for individual petitioning in the statistics.

A nation-wide survey of villagers’ perceptions of conflict further revealed that the credibility of the rules of land expropriation is low. The survey among over 1100 respondents found that most land-related conflicts are concentrated in the peri-urban areas due to urban sprawl, indicating the context-dependency of institutional credibility (Ho, 2017, p. 101). Concerning land expropriations, the survey also demonstrated that only 15% of the compensation scheme was determined through mutual consent, whereas 52% was set by local authorities. Not surprisingly, 58% of interviewees were not satisfied with the compensation (Ho, 2017, p. 107), while only 12% believed that the villagers’ committee could effectively protect their land rights, leaving their trust in the state as low as three percent (Ho, 2017, p. 107).

The declining credibility of the formal land regime has given rise to various forms of informal land use, such as informal settlements (Liu and Zhang, 2020), extralegal land development (Chen, 2020), and so-called “small property rights housing” (Paik and Lee, 2012).

1.3. Toward a more balanced distribution

1.3.1. Making concessions to peasants

The evolution of the land tenure regime in China is a tripartite game among three major actors with divergent interests: the central government, the local governments, and the peasants. Both central authority and local governments have reasons for relaxing the enforcement of the formal land regime and making concessions to peasants.

The central government must balance multiple interests in land use, such as preserving the socialist legacy, developing market economy, securing food safety, addressing urban-rural inequality, and maintaining social stability. In the post-Mao era, the Chinese government retained the urban-rural divide in land tenure and monopolized the land supply in the urban markets. This allowed for extractive behavior on the part of the local government, in turn facilitating rapid urbanization at the cost of peasants’ loss of land rights. Yet, the central government also considers other interests. For example, when the risk of social opposition or even rebellion by villagers becomes too high or the cost of repression becomes too substantive, the central government generally intervenes to coerce local governments to make concessions and change the urban-biased land institutions. On the one hand, the central government curbs local governments by establishing a planned land-use regime and setting a so-called “red line” for the preservation of farmland; on the other hand, the central government grants more land rights to peasants by pragmatically adjusting the formal land regime.

Local governments also need to keep a balance between economic development and social stability. Driven by the cadre evaluation system (Landry, 2008; Ang, 2016), local governments heavily rely on the sale of state-owned construction land to establish industrial zones, provide cheap land to investors, construct infrastructure, and extract revenues. Yet this land-based development model has its costs. First, the land-related unrest may destabilize the society while maintaining social stability is what in Chinese is termed a “veto target” (*yipiao foujue*) in the evaluation of their job performance (Li et al., 2012). Local governments are also restrained by a “coercive dilemma” imposed by the central government: maintaining social stability while restraining the use of coercion. For local officials, it implies that once there are large-scale social protests in their jurisdiction, they fail the evaluation regardless of their performance in other areas. Thus, while repression remains an option to maintain social order, its excessive use might damage the state’s legitimacy or even trigger more protests (Cai, 2008). As such, local officials need to make concessions to peasants when land expropriations incite strong opposition. Second, with increasing compensation costs for land takings, the land conveyance fees rise, making local governments less competitive in attracting investment (Liu, 2018, p. 259). Allowing for the rural land’s entry into the urban market can

mitigate this problem and boost the local economy even though it may reduce the land revenue.

Peasants can take advantage of consultative and coercive institutions to bargain with local governments. Consultative institutions provide peasants with a channel to voice their dissatisfaction with the land tenure system. The petition system is one of the most accessible and low-cost consultative institutions. The securitization of the Chinese state since 1989 has placed increasing pressure on local authorities for the maintenance of stability (Wang and Minzner, 2015). By staging collective actions or unsanctioned petitioning, peasants can create sensations that are negative for local government performance. To avoid damage to their performance, usually local governments choose not to suppress trouble makers but “buy stability” by paying more cash for peace (Lee and Zhang, 2013, p. 1485) or granting more land rights to peasants.

1.3.2. Pathways to more balanced distribution

Here it is mooted that a more inclusive and balanced distribution of land benefits is the result of interactions between central-level institutional openings and local experiments, facilitated by the (central and local) authorities’ concession to villagers who challenged the formal distributive institution in land use.

Central-level authorities have made concessions in three ways: opening institutional interstices, initiating inclusive experiments, and reviewing existing local experiments. The concessions mainly refer to the development of rural collectively-owned commercial construction land (*jingyingxing jianshe yongdi*).⁸

The central government made three concessions to villagers. The first concession was that the central government drafted rules to exempt villagers and reduce the degree of extraction to release social pressure. For example, various versions of the Land Administration Law (LAL) stipulated that collective economic organizations (in effect, the villages) can use rural construction land to start enterprises on their own accord or establish commonly operated enterprises under joint investment.⁹ This kind of regulation helped peasants to avoid state expropriation when developing collective enterprises.

Second, the central government launched a series of pilots regarding land transfer and the entry of collective construction land into the urban land market. Following a top-down approach, these experiments helped the central government identify prominent problems, explore possible concessions to villagers, minimize potential risks, and balance multiple objectives regarding land use. The detailed experimental schemes will be discussed in Section 6.

The third concession is that central authorities ignore, tolerate, or even sanction informal experiments initiated by local governments and villagers. For example, the omni-presence of the extralegal use of land to build has caused the central government to tolerate most practices rather than demolish illegal buildings (Chen, 2020).¹⁰ In addition, the central government also did not ban certain local measures on land transfer even when they violated national law. This occurred in the context of local pilots (as will be discussed below).

Often, local governments were first-movers in land reforms. For example, the collective construction land was officially allowed to enter

the urban market in Guangdong province since 2005 (Guangdong Provincial Government, 2005). In effect, the sale, lease, transfer, sublease, and mortgage for the use right to collective construction land were all legalized. Suzhou City and Anhui Province made similar breakthroughs even earlier, in 1996 and 2002 respectively (Suzhou Municipal Government, 1996; Anhui Provincial Government, 2002), while other localities (i.e. Hubei, Hebei, Hunan, and Shanghai) followed this trend.

1.4. Rural land shareholding system in Nanhai

In this section, we will zoom in on the case-study of Nanhai in Guangdong Province. Nanhai was once a county and was elevated to a county-level municipality in 1992, and eventually became a district of Foshan City in 2002. Since 1992, villagers in Nanhai pooled their land-use rights, usually at the level of the administrative village or the villagers’ group, thereby forming shareholding corporations that manage their assets on behalf of all villagers. By so doing, they avoided land expropriation and could bring rural land directly to the lucrative urban land market. In this sense, the RLS challenged the conventional, distribution of land value under the statutory dual-land system.

The rise and evolution of the RLS in Nanhai can be explained by the analytical framework illustrated by Fig. 1.

1.4.1. The credibility of dual-land system in crisis

The development of township and village enterprises (TVEs) and the private sector in Nanhai in the 1980 s have considerably involved villagers and made them sensitive to the rising land value. Since 1984, the government strongly encouraged the development of rural industrialization. Numerous TVEs emerged and built their factories on rural construction land. Some villagers also started their private companies and occupied rural construction land in the name of developing TVEs. By 1993, 78% of the rural labor force in Nanhai was employed in off-farm sectors (Jiang and Han, 2005, p. 3). Against this background, the state-imposed land expropriation was hard to tolerate for village collectives and villagers.

Land takings by the government in Nanhai was increasingly difficult and undesirable. First, the government could not afford the huge amount of costs for compensation and replacement, and land expropriation usually met with strong resistance from villagers. Second, compared to the top-down urban industrialization by the government, the bottom-up rural industrialization by villagers made an equal contribution to the local economy and revenue. Third, local governments’ drive for urban expansion and industrial zones was curbed by the planned system of land use, including overall plans for land utilization, annual plans for land utilization, and hierarchical review and approval systems for construction land quotas, by which expropriation was constrained.¹¹

Therefore, both local authorities and villagers doubted the credibility of the formal land regime and had strong incentives to change it.

1.4.2. Informal, distributional experiments with rural land shareholding

The initiation of the RLS embodied the endogenous interaction between local institutional experiments and central institutional openings. Villages in Nanhai initiated the first move in the development of new institutional arrangements for land. The pilot on upscaling farming had failed in 1987 as villagers had generally lost interest in farming (Su et al., 2013, 44). Instead, village collectives began to apply for construction land in the name of building township and village enterprises, and subsequently leased that land to outside investors. Prior to 1992, numerous villages converted their housing land, wasteland, or orchards into construction land for industrial or commercial use without the permission of county authorities (Jiang and Han, 2005, p. 49). For this

⁸ The rural collectively-owned construction land consists of three types: rural housing land, land for public facilities, and commercial construction land, the last of which refers to those which is used by rural collective economic organizations for industrial or commercial purposes according to state land planning. By 2013, the commercial construction land accounted for 13.5% of the rural collectively-owned construction land, see, *Economic Information Daily*, Dec. 3, 2014.

⁹ See article 36 of 1986 LAL, articles 2 and 36 of 1988 LAL, article 43 of 1998 LAL, article 43 of 2004 LAL, and articles 60 and 63 of 2019 LAL.

¹⁰ Peasants have spontaneously developed inclusive institutional variants of the land tenure regime in many areas, some legal, others extralegal. For instance, large-scale extra-legal “Small Property Rights Housing” can be found in many places (Paik and Lee, 2012; Sun and Ho, 2018; Chen, 2020).

¹¹ State Planning Commission and National Bureau of Land Management, “Several opinions on Working out Fixed Land Quotas for Construction Projects,” 1987. Also, see, 1998 LAL, and its 2004 revisions.

reason, Nanhai spearheaded an effort to reform the formal land regime.

In March 1992, municipal leaders selected Xiabai Village as the first pilot for the shareholding system. The village was chosen as its incumbent village Party Secretary, Cen Sangan, enjoyed prestige and had maintained a close relationship with municipal leaders.¹² The pilot proceeded in several consecutive steps. First, the village collective pooled all land, including construction land and contracted (i.e. leased) farmland. Then, a shareholding company was formed by issuing stocks to villagers based on household size. The collective also drafted a “Village Constitution” to govern the company. Lastly, the land pooled by the collective from individual households was zoned for three uses: agricultural production, housing, and industrial/commercial development. In Xiabai, 48% of arable land was planned for industrial development, 16% for residential needs, and 36% for agricultural production (Bledsoe and Prosterman, 2000, p.6).

Local officials also strived to justify and consolidate the informal experiments, not in the least because they were “in direct conflict with the mandates and fundamental process set forth by the 1998 Land Management Law” (Bledsoe and Prosterman, 2000, p.1). Deng Wenchu, the then deputy Nanhai Party Secretary in charge of agriculture, claimed he felt inspired by the collective farming in Wuxi City and the corporate shareholding in market economies.¹³ After the Xiabai pilot, another 13 villages followed suit in early 1993, and by the end of that year, the experiment had already spread to 164 villages.¹⁴ In August 1993, the Nanhai municipal government formalized the experiments through a policy document (Nanhai Municipal Government, 1993). At the same time, Deng was concerned about the political correctness of the pilot, and in November 1993 went to Beijing to consult Du Runsheng, the former Secretary-General of the Ministry of Rural Work under Mao, who would in later years become known as the “Father of Rural Reforms”. In January 1994, Du, other senior researchers, and cadres arrived in Nanhai and attended a seminar entitled “The Land-Based Rural Shareholding System”.¹⁵ This proved instrumental in gaining the endorsement from Du, who also encouraged local cadres to address the remaining problems. A few months later, the Party Secretary of Guangdong Province also visited Nanhai, and urged other wealthy areas in the province to learn from the pilot.¹⁶ In result, the shareholding system quickly spread across the entire Pearl River Delta, and by March 1995, all 241 villages in Nanhai practiced rural land shareholding and had established a total of 1465 cooperative economic organizations.¹⁷

The central government first tolerated the informal experiments in Nanhai and then kept silent on provincial-level codification in Guangdong. In addition, Du Runsheng, as an authoritative figure in rural work, personally endorsed the RLS. Finally, Nanhai was designated as a national pilot site for bringing rural construction land into the urban market by the central government in 2015.

1.4.3. The new functions of shareholding companies

Two fundamental elements of the shareholding system in Nanhai deserve attention: the *governance structure* and *land development*, each assigning new functions to the RLS. While the governance structure addressed distributional issues within villages, the land development proposed a new distributional formula between the government and villagers.

There were two basic types of shareholding companies in Nanhai. The first, termed a corporate group (*jítuan gōngsī*), was established at the administrative village level. The second was the shareholding

cooperative (*gūfēn hézuòshè*), which was established at the level of the natural village or villagers’ group. This structure resulted from a complicated land ownership structure. By 2005, there were 191 corporate groups and 1678 shareholding cooperatives (Jiang and Han, 2005, p. 7). By 2019, these figures had risen to 223 corporate groups and 2081 shareholding cooperatives.¹⁸

Although the governance structure of shareholding companies may vary over villages, they share certain basic principles (Jiang and Han, 2005, pp. 60–65). First, membership involved all village residents with local *hukou* (excluding migrant peasants) and all eligible village members were granted basic shares of the company.¹⁹ In Pingzhou District, for example, some villages provided each villager a minimum of a 0.2 share. Second, on top of the minimum share, the shares of each villager vary with age, older villagers were allocated more shares, other things being equal. Third, stock rights changed according to changes in membership. In most villages, one lost stock rights when the *hukou* was moved outside of the collective or one passed away; contrarily, one received stock rights when one’s *hukou* was vested in the collective by marriage or birth. Fourth, most villages formulated penalty clauses, elaborating the conditions under which one would temporarily lose stock rights. For instance, in Xiayi Sanlian Village, one would lose stock rights for a period of seven years if the one-child policy was violated. Fifth, the shares entailed social welfare benefits for members of the collective only, and were therefore encumbered. In effect, shares could not be transmitted to the next generation, transferred or donated to others, mortgaged, or withdrawn. In sum, unlike an open stock market, the rural shareholding was a closed system. Last but not least, representatives of the shareholders were generally leaders of the villagers’ groups while the chairman of the board was the Village Head or Party Secretary. For instance, in Xiayi Village, 100 representatives were selected from 5800 stakeholders, the village Party secretary was appointed as the chairman of the board, and the village head was designated as the general manager (Jiang and Han, 2005, p. 77).

Shareholding companies’ land development in the urban market challenged the dual-land system. Under the RLS, land development was a land conversion without state expropriation. The predominant model of land development consisted of leasing land use rights or plants to investors (Liu, 2011, p. 80). Managers of these stock companies usually were not adept at doing business. The safer way was therefore just to lease out the land. Investors were also eager to rent land from the villages as collective land was considerably cheaper than state-owned land. Gaobian Village, for example, leased its land since 1993. Over time, villagers leveled and consolidated the existing, fragmented construction land around houses, and converted a proportion of agricultural land into usable construction land for leasing. By 2016, the village had leased out 800 *mu* land to more than 200 manufactories against a rent varying between 12 and 15 yuan per square meter.²⁰ The land consolidation usually had not obtained legal permission from the government but was conducted within the planned areas. Village cadres often believed that they must seize land from the government, as a Party Secretary stated:

“It is not good for villagers if we are too compliant... because the government never gave us land quotas, they took the land and left us nothing...we must struggle for villagers’ interests.”²¹

A substantial percentage of urban construction land was provided by rural shareholding companies. From 1997–2004, 7408 ha of rural land

¹² Interview, HSJ, the Party secretary of Xiabai village, July 27, 2016.

¹³ “Du Runsheng Visited Guangdong Foshan and Endorsed the Reform of Land Shareholding in Nanhai,” *Southern Metropolis Daily*, Dec. 13, 2015.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Nanhai Annals (1979–2002), p. 55.

¹⁷ Nanhai Gazetteers on Land Resources (*guotu ziyuan zhi*), p. 98.

¹⁸ Department of Policy and Reform of Ministry of Agriculture and Rural Affairs, “Nongcun jiti chanquan zhidu gaige qingkuang” (Information on Reform of Rural Collective Property Right Institutions), No. 22, June 21, 2019.

¹⁹ *Hukou* is a household registration system in China. It is generally classified into urban *hukou* and rural *hukou*. Holders of urban/rural *hukou* in different localities enjoy varying degrees of social benefits and public goods.

²⁰ One yuan at the time was roughly equivalent to 0.15 US\$. Interview, LSJ, the Party secretary of Gaobian Village, July 25, 2016.

²¹ Interview, LSJ, the Party secretary of Gaobian Village, July 25, 2016

was converted into urban construction land without state expropriation, accounting for 34.9% of total provision during this period (Yuan and Guo, 2021, p. 44). By early 2018, as much as 63.5% of urban construction land in Nanhai was provided by rural collectives, and 74.5% of industrial land came from rural shareholding companies (Yuan and Guo, 2021, p. 46).

To sum up, the RLS has accorded new distributional functions to the villagers and local governments. In conventional land expropriation, only villagers whose land was taken, obtained compensation and most incremental value of land was seized by the government. In contrast, under the RLS, nearly all increased value of land is retained by village collectives and shared by village members in an egalitarian way. For the local government in Nanhai, the RLS reduced its cost of land provision for industrialization and helped boost its local economy and revenue source, as a considerable make-up for its loss in land development. These new functions consolidated the experiments with rural shareholding.

1.4.4. A more credible distribution

The RLS created a relatively more credible distribution of land benefits between local governments and villagers, partly addressing the credibility problem of the dual-land system with collective land in the countryside and state-owned land in the cities.

Villagers benefited a lot from the RLS that would not have been possible under the system of formal land expropriation. With their lease and use rights collectivized through shareholding, villagers periodically received dividends on shares. Fig. 2 shows that the dividends for villagers in Shangbai Village have substantially increased since 1999. The distribution of profits varied with villages, e.g. in 2003, in Xiaksi Sanlian Village, 58% of net profits were allocated to villagers as dividends; in Xiabai Village, 51% was retained by the collective for further investment and 41 was divided under the villagers; in Shangen Village the bonus reached 80% (Jiang and Liu, 2003, p. 90). In Pingzhou, Guicheng, Dali, and Huangqi districts, the per capita dividend on shares increased from 1016 yuan in 1994–1951 yuan in 2000; from 1994 to 2000, in some villages, the bonus of shares accounted for a quarter, one third, or even half of villagers' per capita annual net income (Jiang and Liu, 2003, p. 91).

According to the official statistics in Nanhai, the total income of the rural economy increased from 140.327 billion yuan in 2003–393.011 billion yuan in 2008, the annual growth rate was 22.87% during this period (Yuan and Guo, 2021, pp. 59–60). Over the same time span, the annual growth rate of the net income of shareholding companies at two levels reached 18.07%, and the growth rate of the net income per peasant was 7.07% (Yuan and Guo, 2021, p. 60).

Other statistics also showed that the RLS significantly improved villagers' income (Deng and Xiang, 2012, p. 41). Over a period from 1993 to 2011, the total income of the rural economy in Nanhai had

increased by 25.77 times, achieving 534.5 billion yuan in 2011. Over the same period, the collective assets at the levels of the administrative village and villagers' group reached a total of 26.8 billion yuan, eight times that in 1993. In addition, the per capita annual income reached 14,574 yuan, an increase of 5.4 times. By 2018, these two collective levels possessed 43.972 billion yuan in collective assets, while the dividends reached 4.974 billion yuan with per capita dividends at 5994 yuan.²²

The RLS in Nanhai had two main redistributive effects for villagers. First, villagers retained the increment of land value in their own hands. According to a survey in 2000, the per capita income of respondents was 9823 yuan, in which 4429 yuan (45.1%) were dividends of shareholding companies; by 2008, per capita dividends reached 2347 yuan (Liu, 2011, pp. 87–89). Second, villagers' shareholding companies provided investors with collective construction land, which was much cheaper than state land. This cheap provision of land reduced the cost of investment and boosted industrialization, creating numerous off-farm job opportunities for villagers (Liu, 2008).

1.4.5. New challenges and issues of credibility

According to the Credibility Thesis and the Theorem on Dynamic Disequilibrium, “credibility is undoubtedly related to distributional conflict, it does not posit that a ‘fully credible institution’ – if that ever exists – would also be free from conflict. Instead, credibility assumes that distributional conflict is part and parcel of any property rights arrangement.” For this reason: “one might argue that a steady status is never reached” (Ho, 2014, p. 16).

Despite the achievements of the RLS, it has also met with new problems that threatened its overall credibility. For one, the shareholding structure was shifting due to demographic changes and the relocation of villagers' *hukou*. The ongoing changes in the shareholding structure posed challenges to the governance of the stock companies and generated grievances among villagers. For instance, to retain their shares, girls refused to move out their *hukou* if they married spouses from outside the collective, while some original villagers abandoned their urban *hukou* and moved their *hukou* back to the villages, even after having lived in the cities for years. Second, cadres' concurrent positions in village governing bodies and the stock companies/cooperatives led to the concentration of power in the hands of a small elite (Kan, 2019). This situation was conducive to corruption and the amalgamation of public administration with corporate governance. Third, the lack of transferability of land shares went against the logic of the market and hindered the development of villagers' corporations (Bledsoe and Prosterman, 2000). Fourth, leasing land to outsiders was illegal according to national laws, as a result of which the lease contracts were not protected by law. Thus, once dispute arose both businesses as well as villagers could lose out. Lastly, as admitted by a village cadre, leasing land to small businesses is not a sustainable, and profitable way because the rents were considerably lower than the prices of selling the use rights in the primary land market, while small businesses generally were lowly positioned at the industrial value chain.²³

To maintain the credibility of the RLS, local authorities and villagers launched several reforms. The foremost of these addressed the problem of the changing membership of the village collective and the structure of shares. Since 1996, some villages experimented with a fixed structure of shares (*guquan guhua*) regardless of demographic change and a limited circulation of shares within the same community.²⁴ The issue of land shares was fixed at a particular time, after which immigrants by marriage were allowed to buy shares during a stipulated period. Villagers

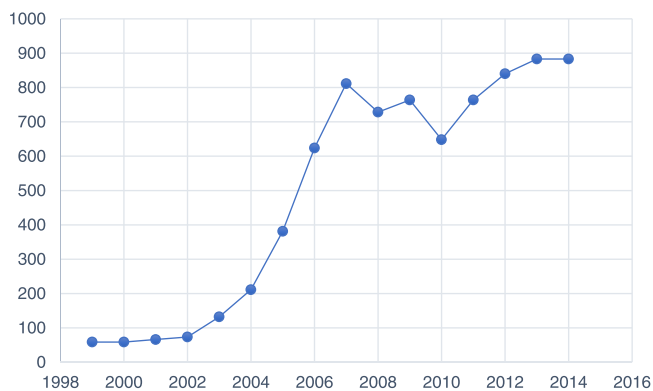


Fig. 2. Corporate group's Dividends for Villagers in Shangbai Village, 1999–2014 (unit: 10,000 yuan).

Source: The Annual Financial Report of Shangbai Village, 2015.

²² Department of Policy and Reform of Ministry of Agriculture and Rural Affairs, “Nongcun jiti chanquan zhidu gaige qingkuang” (Information on Reform of Rural Collective Property Right Institutions), No. 22, June 21, 2019.

²³ Interview, DSZ, the director of a stock share cooperative in Gaobian Village, July 25, 2016.

²⁴ Nanhai Gazetteers on Land Resources (*guotu ziyuan zhi*), pp. 98–99.

could also transfer part of, or all of their shares to others in the same collective. Villages with less land but more properties could also divide shares into land shares and property shares. The [Nanhai district government \(2003\)](#) issued a policy document formalizing the reforms above.

However, the reforms were far from perfect. The fixed structure of shares generated new problems. Immigrants by marriage or new-borns led to continuous changes in the membership structure of the collective, and, in turn, to a demand for a redistribution of shares. Disgruntled at the fixed-share distribution, new members of the collective would usually appeal to higher authorities and/or engage in some form of collective action. In the face of these pressures, local officials and village cadres had to backtrack on the reforms by redistributing shares again, and again. Gaobian Village, for instance, reopened the share distribution in response to demographic change in 2004 and 2009. A village party chief admitted:

“[O]nce we conceded, we were unable to defend the fixed shareholding...the government has to maintain social stability and reduce poverty...and we still have to redistribute the shares regularly.”²⁵

Another major reform entitled “decoupling politics from economy” (*zhengjing fenli*), aimed to separate public administration from corporate management in the village collective. Considering the problems of the dual role of village cadres and the amalgamation of public service with profit-making in stock companies/shareholding cooperatives, local authorities started to experiment with separating self-governed organizations from the village collective in 2010. The functions, assets, finances, institutions, and staff of the two types of organizations were separated.²⁶ Village committee members stepped down from the management of stock companies/shareholding cooperatives and focused on rural governance ([Deng and Xiang, 2012](#)). However, village cadres could still sit on the board of trustees of collective economic organizations and supervise their operation. In later years, all villages practiced this separation of politics from the economy.

This reform was endorsed by Wang Yang and Hu Chunhua, the then Party Secretaries of Guangdong Province, in 2012 and 2014 respectively, and was finally formalized by the central government in 2015 ([CCP Central Committee and State Council, 2015](#)). To achieve a transparent governance of the collective economy, Nanhai established an Exchange Center for Rural Collective Assets as well as Financial Platforms for the Village Collective Economy. Any exchange of collective assets had to pass through the Exchange Center, while all collective assets, contracts, and bonds were entrusted to the platforms, which were overseen by third-party accounting firms. The ways of transfer at the exchange centers included public tender, auction, and listing.

The third reform was the marketization of collective construction land. From 2015–2019, 33 pilot counties, cities, and districts were authorized by the central government to experiment with reforms of rural land expropriation, as well as the commercialization of rural collective construction land. To this end, the State Council temporarily adjusted the implementation of the relevant laws in the pilot regions. The general objective of this national pilot program was to establish “a unified construction land market for urban and rural areas” and develop “a fair and reasonable system for the increment of land income and distribution” ([CCP Central Committee and the State Council, 2020](#)). Being one of the pilot sites, Nanhai was assigned to explore the entry of collective construction land into the urban land market.

Nanhai seized the pilot to refine the shareholding system of rural land. At the central level, the reform was overseen by the Office of the Leadership Group for the Pilots on Rural Land Tenure. In 2015, the [Nanhai district government \(2015a, 2015b\)](#) issued tentative measures on the management of collective construction land’s entry into the

urban land market, regulating such matters as the qualifications, methods, and taxation. According to these regulations, the transfer of village land was limited to collective construction land, i.e. a small proportion of existing (*cunliang*) collective construction land designated for the development of industry, mining, storage, and commerce. Collective construction land excluded reclaimed construction land after 2014, rural housing land, farmland, and other lands that were unregistered, in dispute, or restricted by law.²⁷ Notably, only the use rights are tradable; ownership still belongs to the village collective.

Methods of transfer include conveyance (*churang*), leasing (*zulin*), shareholding (*rugu*), transfer (*zhuanrang*), renting (*chuzu*), and mortgage (*diya*). Village collectives, as the owners of rural land, convey or lease out the use rights of collective construction land to land users, or buy shares of other companies with priced land rights. Terms of transaction should not exceed 70, 50, or 40 years, respectively, for residential, industrial, and commercial use. Once the use rights were obtained from village collectives, land users could further transfer to third parties.

To facilitate the commercialization of collective construction land, Nanhai authorities established district-level and township-level Exchange Centers for Public Resources, through which all transactions of use rights of collective construction land were carried out. The ways of public exchanges have public tender, auction, and listing. The development of intermediary organizations was also encouraged. During transactions, village collectives and other parties involved in land renting or transfer had to pay “adjustment fees” (*tiaojiejin*) for land value increment to the local government. The rate of “adjustment fees” ranged from 5% to 15% of the total income generated by transactions ([Nanhai district government, 2015a, 2015b](#)).

1.5. Rural land shareholding across China

Generally, two types of rural land shareholding companies/co-operatives exist in China. One is developed for agricultural production and modernization, and the other is aimed to reap more profits in the urban land market (e.g. the Nanhai model discussed in this article). The way of land development is the major difference between these two types of RLS. [Table 1](#) compares the two types of RLS.

The RLS for agricultural modernization only involves agricultural land and the land transfer occurs within the village collective. This type of RLS has been promoted by the central government since 1985 ([CCP Central Committee, 1985](#)). The government has long recognized farmer professional cooperatives as crucial to improving moderate-scale farming. In 1987, the central government initiated an experiment with the shareholding system in Shangzhi City in Heilongjiang Province, Yutian County in Hebei Province, and Liquan County in Shaanxi Province ([Zhou, 1994](#), pp. 583–84). Since then, the central government has issued numerous policy documents, regulations, and laws to facilitate the development of the RLS for agricultural modernization ([Lin, 2018](#),

Table 1
Comparing two types of rural land shareholding system.

	Land type	Land development	Government attitudes
RLS for Agriculture	Agricultural land	Land transfer within village collective	Encourage and support
RLS in Urban Market	Construction and unused land	Land development in the urban market	Experiment and conditional support

Source: designed by the author

²⁵ Interview, LSJ, the Party secretary of Gaobian Village, July 25, 2016.

²⁶ Nanhai Yearbooks, 2010, p. 420. Also, see ([Nanhai District Government, 2010](#))

²⁷ This exclusion aimed to limit the scope and risk of the pilot. To guarantee the villagers’ right of habitation and food security, rural housing land and farmland were not transferrable.

pp. 73–77). In this context, the Law of the People's Republic of China on Farmers' Professional Cooperatives was issued in 2006 and subsequently revised in 2017.

Since 2014, the central government initiated a reform on the rural collective property right system (*jiti chanquan zhidu*). The central government chose 29 county-level regions to start the first-round experiment in November 2014. By 2020, the central government had conducted four rounds of experiments, involving a total of 15 provinces, 89 prefectural-level cities, and 442 county-level areas (Zhao, 2020, p. 1). By 2020, 360,000 villages had set up land shareholding cooperatives involving more than 600 million members (Zhao, 2020, p. 1). However, this reform was aimed to quantify the total value of the rural collective assets (including land) and turn them into stocks of villagers (Chen, 2016). The boom in land shareholding did not involve the entry of collective construction land into the urban market.

Compared to the RLS for agricultural modernization, which confines the land development in rural areas, the RLS in the urban land market (e.g. the Nanhai model) brings rural construction and unused land directly to the urban land market. This type of RLS is significantly more redistributive, granting more land benefits to villagers and directly challenging the formal dual land system. Although the central government encourages the RLS for agricultural modernization, it holds a more cautious and complex attitude towards the entry of collective construction land into the urban market in terms of shareholding.

As a concession to villagers, the central government initiated reforms on the dual land system. In 1996, central authorities authorized Suzhou Municipality in Jiangsu Province and Huzhou Municipality in Zhejiang Province to undertake experiments on the so-called “collective construction land's entry into the market.” In later years, Gutian in Fujian Province and Anyang in Henan Province followed suit. Under these experiments, the legally obtained rights to use collective construction land (mainly owned by township and village enterprises) could be transferred, leased, and possessed as shareholders, while enterprises could also buy and mortgage land use rights. From 1999 onwards, the Ministry of Land Resources started a series of policy studies of and experimentation on the transfer of collective construction land in the urban market. Based on central-level instructions, many local measures on land transfer brought collective construction land directly into the urban land market without the need for formal state expropriation. This legal breakthrough has been codified by local governments' policy documents in Suzhou (1996), Anhui (2002), Guangdong (2005), Hubei (2006), Hebei (2008), Hunan (2008), and Shanghai (2010) (Department of Rural Economy of Development Research Center of State Council, 2015, pp. 31–34).

A significant opportunity for peasants occurred when the central government proposed to build an “integrated urban-rural construction land market” in 2013. The central document vowed that “we will allow rural collectively owned profit-oriented construction land to be sold, leased and appraised as shares, on the premise that it conforms to planning and its use is under control, and ensure that it can enter the market with the same rights and at the same prices as state-owned land” (CCP Central Committee, 2013). Two years later, the Ministry of Land Resources selected 33 counties (cities/districts) for experiments on rural land expropriation, collectively-owned commercial construction land, and rural housing land (CCP Central Committee and State Council, 2014). The experiments catered to a more inclusive distribution for peasants. Notably, all related provisions under formal law and national regulation were suspended in the pilot areas. After the experiments were closely monitored and reviewed by the central authorities, some institutional reforms have been codified and incorporated into the latest revision of the Land Administration Law in 2019.²⁸

²⁸ The most important change in the new law is that collective construction land can directly enter the urban market without going through state expropriation.

With concessions from the central authorities, local governments and village collectives experimented with many forms of “collective construction land's entry into the urban market,” amongst which the Nanhai model is one of the most renowned.

The Nanhai model inspired local governments and village collectives in other regions in China. For example, by June 2010, Zhejiang Province had established 232 land shareholding cooperatives (Xue et al., 2013), while by June 2007, the number of land shareholding cooperatives had reached 682 in Jiangsu Province, involving 316,400 *mu* land (23% used for non-agricultural development) and 125,100 households (Zhang, 2010, p. 106). According to other statistics, Suzhou in Jiangsu Province had established 74 land shareholding cooperatives by 2004, involving 25,200 rural households and a total of 66,920 *mu* land (Jiang and Chen, 2007).

These cases of “collective construction land's entry into urban market” in terms of shareholding had two favorable conditions. First, village collectives have relatively stronger organizational capacity and entrepreneurship so that they can pool villagers' land rights and establish shareholding cooperatives. Second, these experiments were largely located in more industrial areas where the urban land market was substantially more profitable.

Despite certain differences in their specific design and operation, the principles of the various pilots on rural land shareholding remained the same: pooling land rights together in terms of shareholding and developing rural land in the urban market. Similar to the Nanhai model, these variants were also the results of the endogenous interaction between central government's institutional openings and local experiments. While the RLS in the urban market across China partly addressed the credibility problem by challenging the formal land regime, they also created new problems with the governance structure and land development.

2. Conclusion and discussion

This article examined the rise and evolution of a vital institutional innovation in China, the Rural Land Shareholding or RLS. It achieved this with particular reference to one of the experimental frontrunners of the RLS, the Nanhai model. The article finds that the endogenous interaction between central institutional openings and local institutional experiments has functioned as a distributional dynamic, bringing about the emergence of the RLS, as a result of which the credibility problems of the formal land tenure regime were partly addressed. In effect, the spread of the RLS across China was a response to the low degree of credibility of the formal dual land tenure system that had led to forced evictions, widespread social conflict, and urban sprawl.

Having said that, the paper also demonstrated that the RLS is far from perfect and continuously evolves in response to changes in institutional credibility and distributional dynamics. Its governance structure, identification of collective membership, protection of women's rights, transferability of shares, supervision of collective assets, and profitability are still facing major challenges. As the Theorem on Dynamic Disequilibrium suggests, “institutions are in perpetual flux moving onward from one state to the other...institutional change never achieves a state of balance between actors' interests, power, and resources, as tension and conflict are evident in any institutional arrangement” (Ho, 2017, pp. 123–124). Once an issue of credibility is resolved, new problems coupled to new distributional conflicts emerge, in turn, giving impetus to never-ending changes in institutional form.

The neo-classical theory of institutional change exhibits several weaknesses in explaining the rise of the RLS in China. First, the primary exogenous explanatory variable is the change in relative prices, yet, as ascertained herein the case of Nanhai, the change in land value per se did not initiate the RLS unless it was perceived by villagers and local officials as credible, and thereafter employed to reexamine the function of the formal land regime. North realized the limitation of this variable. Later, in his “five propositions about institutional change,” North (1993)

tried to integrate organizations, institutions, competition, incentives, mental constructs of the players into an encompassing framework. Unfortunately, these “five propositions” “do not add up to a theory” (Levi and Weingast, 2019, p. 215). In contrast, the credibility thesis develops a more comprehensive framework to understand the driving force of institutional change. The term, institutional credibility, not only contains the function of the land regime (objective dimension) but also includes stakeholders’ shared perception of that function (subjective dimension). Second, there is no power analysis in the neo-classical theory, and players are treated equally in the coordination game. However, as found in the RLS and argued by the author, the distributional dynamics involved significant political bargaining between the central government, local governments, village authorities, and villagers, with *unequal* power relations. Third, the neo-classical analysis generally uses punctuated equilibrium models to explain institutional change, contrarily, however, the RLS in Nanhai has demonstrated to change continuously while no stable equilibrium has been achieved.

Theories of gradual institutional change in historical institutionalism also meet challenges in comprehending and explaining the rise of the RLS. Instead of using external shocks to explain institutional change, Mahoney and Thelen (2010) found that characteristics of the political context (strong or weak veto possibilities) and the targeted institution (high or low levels of discretion) shape the type of dominant change agent (insurrectionaries, subversives, parasitic symbionts, and opportunists) who, in turn, predict the type of gradual institutional change (displacement, layering, drift, and conversion, respectively). In the case of Nanhai, to some extent, the central institutional openings provided local officials and villagers with weak possibilities, and the ambiguous regulations of the land institution granted them a certain discretion. The rise of the RLS could be conceived as “institutional layering” or even “displacement” within the historical institutionalist perspective. However, even these notions still can not adequately account for the villagers’ ever-changing perceptions of the RLS and the follow-up, continuous reform measures.

Theoretically, the findings of this article echo the Credibility Thesis (Ho, 2014, 2017) and call for greater attention to the distributional dynamics that bridge the gap between institutional function/credibility and form. Whereas the neo-classical theory on institutions and the conventional approaches to institutionalism overemphasize institutional form (e.g. public/private/common, formal/informal property rights), the Credibility Thesis redirects our attention to institutional function and its expression through credibility. Nevertheless, one must be careful to avoid falling into the trap of functionalism in institutional analysis. In this sense, it is critical to note that “the conceptualization of institutional function decisively breaks with Structural Functionalism, which emphasizes equilibrium, consensus, and intentionality” (Ho, 2017, p. 18).

Furthermore, the statement that “institutional form follows institutional function” or “institutional function presides over form” does not mean that institutional form is *determined* by institutional function. The Credibility Thesis holds that the two are tied together in an endogenous relation, as shown in a recent study of common property resources (Ghorbani et al., 2021). Lastly, there may also be a gap between function and form. Even if we accept that institutional function matters, we still need to ask the question: whose function matters? Considering that distributional conflict is essential to institutions, the author contends that the dynamics that govern the struggle for distribution and redistribution should be our focal point of analysis. This research mooted that it is the concept of distributional dynamics that may effectively bridge the gap and explains institutional change.

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Declaration of Competing Interest

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