

PEASANTS ON THE VERGE

BY PU WENZHONG

The interests of peasants are increasingly protected in China's law and Constitution, bolstering peasants' growing awareness of their rights. But the example of Dangxi Village, Shandong Province demonstrates that legal safeguards pose little challenge to abuse by entrenched interests, and that the rights of peasants remain very much on the fringes of China's legal system.

The legal marginalization of the peasants' rights movement is illustrated by events in Dangxi, a village in the Jinan municipality of Shandong Province. Located in the southwestern foothill suburbs about 10 kilometers outside of Jinan, Dangxi Village has a population of more than 3,200, mainly of the Hui ethnic group. The village lies at the intersection of several major roadways, including National Road 104 and Danyang Road, and is the administrative seat of Dangjiazhuang Township. Its main agricultural products include wheat and corn, in addition to vegetables.

Twenty years ago, when the system of household-based farm output quotas was first implemented, each villager held an average of 1.5 mu of farmland. Today, the per capita farmland holding is down to 0.3 mu. Over the past 20 years, land appropriation under the name of development construction has reduced the village's arable land from more than 5,000 mu down to less than 1,000 mu. Some 136 households have lost all of their farmland, receiving as compensation only a quantity of seedlings with a value equivalent to 800 catties (400 kg) of corn per mu.

A few years ago, the Jinan City Middle District recommended a strategy to develop the southern region, which resulted in a series of land appropriations in Dangxi Village. The village's steel factory and telephone plant, which constituted a total investment of over 5 million yuan, went bankrupt because of management problems. In addition, former village branch secretary Jin Yanxi and the village committee he headed engaged in rampant spending on items such as expensive cars and the sponsorship of martial arts competitions. As a result,

this village, with its favorable transportation infrastructure, geographic location and formidable development potential, incurred a debt of over 160 million yuan, and the landless villagers of Dangxi became so-called "three-no nomads," with "no land, no job and no social insurance."

Starting in 1992, peasants' rights activists led by Zhang Tingfu began petitioning to defend peasants' interests. Over a period of 10 years, the group submitted more than 500 petitions to government departments at the district, municipal, provincial and central levels, covering some 20,000 kilometers. On March 30, 2003, in an election assembly attended by 1,600 villagers, Zhang Tingfu won 1,514 votes and became the new village committee head.

After taking office, the new village committee initiated several measures to defend villagers' interests, placing priority on clarifying financial affairs and collective land leases. In their encounters with the village Party secretary, township Party committee government, investors, the district committee's local administration and other relevant bodies, the elected village committee used the law as its weapon in defending peasants' rights. However, it became clear that even a village committee backed by a public mandate to defend villagers' legal rights and interests is at a disadvantage before an entrenched establishment, and that the peasants' rights movement remains outside the boundaries of legal protections.

Exposing the issues

In recent years, the peasants' rights movement has made use of a wide range of channels, including petitioning, lawsuits, administrative deliberations, appeals and legal assistance requests. For many peasants' rights defenders, petitioning has become a means to establish greater credibility in the eyes of fellow villagers, and also to strengthen the legitimacy of the movement. The specific issue at the heart of the petition often becomes of secondary importance. This development reflects the awakening of peasant democratic awareness within the movement.

Professor Yu Jianrong made a general observation regarding the peasants' rights movement in his article "Contemporary Chinese Peasants' Resistance Based on Law"¹:

James Scott's *Everyday Forms of Peasant Resistance*² and Li Lianjiang's

“Rightful Resistance by Contemporary Chinese Peasants”³ provide explanations of the contemporary Chinese peasants’ rights movement. In reality, in today’s Chinese rural society, especially in the central regions buffeted by comparatively intense social unrest, peasant resistance has gone beyond the framework of “resistance following the law” in both form and content . . . I call this new form of resistance “resistance using the law.” The phrases sound similar, but the difference in meaning is great.⁴ In “resistance using the law,” militants are more likely to use themselves as the primary means of achieving the goals for which they are struggling. In “resistance following the law,” the militants use lawmakers as the primary means of achieving these goals.

Villager self-administration through contested elections has become an increasingly popular means for village rights representatives to participate in local leadership and to enter into dialogues with government departments.

The advancement of villager self-administration from grassroots experimentation to an official legal standing has been part of the rural reforms taking place over the past 20-odd years. In terms of the peasants’ rights movement, however, the value of this system is more in the way that it has broken down and exposed the problems of traditional village-level administration than in any systematic protection it might offer to the promotion of a more benevolent administration.

“Address the villagers in broad daylight”—that was the title of a statement circulated to Dangxi villagers by village head Zhang Tingfu. On the night of October 12, 2004, after the village’s electricity supply had been shut down, an anonymous individual surreptitiously distributed a two-page tract to villagers’ homes. According to Zhang Tingfu, this was the third such incident. Why couldn’t the writer say what he had to say in broad daylight? Why did he have to wait until dark to distribute his tracts?

One faction claimed that returning the land to the peasants would ruin Dangxi Village’s investment prospects and scare developers away.

The matter arose after the newly elected village committee assumed office, and a decree by the Municipal Land and Resources Bureau called for the recovery of 113 mu of farmland located west of the Dangjiazhuang County grain warehouse and east of the Shimicang Dunes railroad, which had been illegally leased out by the former village committee. After examining the matter, the village representatives and subcommittee had decided to lease the recovered land back to local villagers and to distribute to the villagers all income from the land lease. Villagers who had lost farmland and had no livelihood were to be given priority. It was a concrete contribution to villagers’ welfare, and a genuine achievement by the village committee.

“This move, which benefited the villagers, struck a nerve with some people. That’s why they did this,” said Zhang

Tingfu, referring to the incendiary two-page tract, which questioned what the village committee had done.

The tract’s author claimed that the committee’s petition-driven lawsuit had sabotaged relations between Dangxi Village and higher levels of government, while failing to discover any accounting errors.

It was after the distribution of this tract that Zhang Tingfu issued his statement “Address the Villagers in Broad Daylight” on behalf of the village committee. The statement listed what the village committee had done to defend villagers’ rights and interests, and gave counter-arguments to the points raised in the anonymous tract.

But the parties behind the tract did not abandon their cause. On October 30, just as the Dangxi Village Committee was about to recover the 113 mu of land west of the Dangjiazhuang County grain warehouse and east of the Shimicang Dunes railroad, a villager named Li Jian and others used tractors to dig four troughs measuring two meters deep and 700 meters long, running from north to south, effectively occupying and sabotaging the land.

The atmosphere in Dangxi Village became tense as the two factions came into direct confrontation. The faction of “lost land defenders,” represented by Dangxi village committee head Zhang Tingfu, wanted to recover the illegally occupied farmland for Dangxi villagers, and to audit the village’s accounting, especially land lease accounts. The “acquired interest camp,” on the other hand, was represented by former village committee secretary Jin Yanxi and former village head and current Party branch secretary Li Lianzeng. It held that the two former village committees were innocent, and that all of the land leases contracted by the village complied with appropriate procedures. This faction claimed that forcible recovery of the land would only ruin Dangxi Village’s investment prospects and scare developers away, ending all hopes for Dangxi Village’s economic development.

After the land was occupied, the Dangxi Village Committee submitted reports to the township government offices, the District Land and Resources Bureau and the Municipal Land and Resources Bureau, hoping for an immediate investigation. But as of today, the occupied land has still not been recovered, and those involved have not been dealt with.

The two sides continue their confrontation. Anyone who visits Dangxi Village can clearly sense the volatility of the situation, arising from the villagers’ awareness of their own rights in respect of the land upon which they rely for their livelihood. This awareness illustrates the evolution of peasants’ rights from the passive method of petitioning to the proactive election of party representatives to defend their interests. However, we also see the limitations of villager self-administration in defending villagers’ rights. Even when viewing the Dangxi villagers’ conflict beyond the general moral question of right and wrong, a huge gap is evident between the “lost land defenders” and the “acquired interest camp” in terms of the resources they have available for defending their personal interests. This unequal start has left the lost land group in a difficult, risky position.

The legal environment for peasants' rights

After the breakup of the traditional planned economy, with its highly centralized rural administration, villages implementing a household-based system of farm output quotas and formed a variety of structures to protect their personal interests. Establishing the necessary legal environment for peasants' rights has required enacting laws and regulations and implementing policies and measures to protect the peasants' legal rights in pace with social and economic development. At the same time, it has required accommodating and balancing the rights of rural society's various interest groups and allowing their participation in public affairs and social activities through a wide range of official and non-official channels.

In 1982, the Constitution officially established the legal status of the village committee as a grass-roots collective self-administration organization, reflecting the withdrawal of highly centralized authority from village government. This was the dawn of a new era of rule of law for Chinese peasants. During the next twenty years, Chinese rural society underwent extensive development. In particular, the 1990s saw acceleration in the expansion of rule of law nationwide, and many relevant civil and administrative laws, such as the Village Committee Organization Law, Agriculture Law, Land Administration Law and Rural Land Contractual Law, have been passed as a means of providing legal guarantees for peasants' rights.

However, the accelerated social evolution of the 1990s was also accompanied by sharpened conflicts between various interest groups, with the lower social classes typically the most likely to lose out. This has led to a curious phenomenon: on one hand there has been a steady stream of new laws, regulations and policies protecting peasants' rights. On the other hand, violations of peasants' rights continue to occur.

The director of the State Letters and Petitions Office, Zhou Zhanxun, pointed out in an interview in the Xinhua News Agency's "Banyue Tan" column in November 2003⁵ that in recent times, mass petitions, repeated petitions and Beijing-bound group petitions have sharply increased, along with the number of participants and the scope, duration and intensity of activity. Certain regions and industries have even witnessed a chain reaction that has seriously affected the social stability of Beijing and the neighborhoods of the petitioned government offices.

A number of policy measures have been implemented in relation to violations of peasants' rights. An incident in May 2004 in Funan County, Fuyang City, Anhui Province, in which a Party branch secretary knifed someone to death in a retaliatory attack, highlighted the extreme difficulty of the peasants' rights movement and the severity of rural conflicts. Barely a month after that case, subsequent to discussions in the Chinese Communist Party Politburo, the CCP's Central General Office and the General Office of the State Council issued "Recommendations on an open and democratic system regarding an integral rural administration." This document presented a new policy framework regarding peasants' rights, taking into account the hardship that lies at the heart of China's rural society.

According to a recent survey by the Chinese Social Scientific Institute, problems ranging from the excessive hardships

faced by peasants to questions of basic survival arising from land issues show the extensive shift in focus of peasants' rights. Institute researcher Yu Jianfei, who directed the survey, told reporters that rural land conflicts are in the process of becoming a priority issue that affects the current rural society's stability and development.⁶ Land appropriation reform also coincides with many social problems triggered by peasants' loss of land. The much-awaited "Strategic Recommendations Regarding the Improvement of the Land Appropriation Compensatory System," finally issued in November 2004 by the Ministry of Land and Resources, established new standards for land appropriation compensation, along with other laws protecting the interests of dispossessed peasants.

While there has been a steady stream of new laws, regulations and policies protecting peasants' rights, violations continue to occur.

Laws, regulations and policy measures protecting peasants' rights are but one crucial factor in the legal environment. Building a platform for laws, regulations and policy measures that protect the interests of all social levels will require a wide range of non-governmental and civil organizations to share information and engage in dialog on an equal, open and fair basis. The ultimate goal is to establish a common policy and legal framework that meets the requirements of a value system based on social justice and protection of society's most vulnerable groups. We can see from cases in which peasants' rights have been violated that representatives of peasants' interests are usually excluded from the formation and the implementation of laws, regulations and policies involving peasants' rights. In fact, peasants' interests are sometimes actually violated in the name of policy implementation.

On September 16, 2004, Dangjiazhuang organized a township working conference in order to communicate an order from the upper level of government to implement a plan for "Township Administration of Village Accounting." The main points of the plan, laid out in the Municipality Middle District Decree Number 15 (2004), were to: 1) strengthen the organization's leadership and improve communication work; 2) establish a centralized village accounting system and recruit good quality personnel; 3) effect punctual submission of itemized accounts; 4) improve the system and standardize operations; and 5) implement accounting configurations and procedures.

On the afternoon before the meeting, when village head Zhang Tingfu asked the village government for the accounts that were to be submitted for auditing, Township Discipline Commission Secretary Shang Xiping replied, "The village's accounts have been submitted for centralized handling by the township, in accordance with the written directive."

In fact, Dangxi Village's accounts had been submitted to the Auditing Bureau some 30 months earlier, and the newly elected village committee had yet to receive an official

accounting report. Zhang Tingfu responded, “If this is what is meant by ‘township administration of village accounts,’ then there is no such thing as villager self-administration. In fact it is in blatant conflict with the Village Committee Organization Law.” He maintained that as long as he was serving his term, he would not allow “township administration of village accounts” to be carried out in this way.

When the democratically elected village committee took legal action to address the problem of illegally leased land, it met with obstacles.

However, Duanlin Village head Zhou Changqing had a different view of “township administration of village accounts”: “Why not? Provided that the former village branch secretary and former village committee present the accounts and explain them clearly to the villagers, why can’t the accounts be handed over?”

The township working group displayed a classic and traditional obeisance to the higher level of government. They considered their mission accomplished by interpreting the higher government’s intentions and executing them in an exacting, literal manner. The original goal of the plan was to strengthen financial administration at the village level and establish strict discipline regarding finances, and its protective measures in the form of “five insists, four no-changes, three not-alloweds and two principles” seem to comply with the Village Committee Organization Law and the Accounting Law. However, the plan says nothing regarding old accounts, failing to address villagers’ suggestions on how to deal with problems they detected. There is not even clarification regarding how the Township Administration of Village Accounting system could safeguard the Village Committee Organization Law, or how it complies with the Central General Office and the General Office of the State Council Document No. 17 on transparency in village affairs and financial supervision. It really only focuses on how to establish a base-level township accounting office to handle village accounts. Discipline Commission secretary Shang Xiping actually used “township administration of village accounts” as an excuse for holding onto the Dangxi village accounts for 30 months without giving any explanation to the village committee or the villagers. No wonder Zhang Tingfu shudders at the mere mention of the system.

Peasants’ rights in legal limbo

The participation of elected peasants’ rights defenders in the village committee gave the Dangxi Village peasants’ rights movement organizational strength. The importance of this organized strength was demonstrated even before the village committee election, when the driving force behind the peasants’ rights movement was Zhang Tingfu. Before 2002, landless peasants defended their rights through petitions, either personally or through representatives, to district, city and provincial governments as well as to the Ministry of Land and Resources, and occasionally resorted to lawsuits.

Decree Number 004 (2001), handed down by the Municipal Land and Resources Bureau to the Jinan Land and Resources Bureau, states that Jinan’s Hua Fong High School had unilaterally occupied 113 mu of land in Dangxi Village and was required to demolish all buildings and facilities on the illegally occupied land within a stated time limit and restore the land to its original state. This “fruit of victory” put wind in the sails of the Dangxi Village peasant rights movement, and in 2002, a group of peasant rights defenders, including Zhang Tingfu, participated in the village committee election. However, Zhang Tingfu ended up boycotting the election on April 14, 2002 on the grounds that it was unfair and lacked transparency, as village cadres carried the ballot box to each home and illegally voted as proxies for some villagers. After this election was abandoned, Zhang Tingfu spent a year representing the villagers in a series of negotiations with the township government’s top leadership as well as officials of the municipality’s central district. Finally, on March 30, 2003, Zhang was successfully elected as Dangxi’s new village committee head, with Fa Jinguo, Zuo Dianqing, Bai Yuanyou, Ma Hongfu, Fa Yupu and Fa Yukang elected as new committee members.

Around that time, Jin Biao, the son of former village branch secretary Jin Yanxi, attempted to occupy the village’s public burial ground, spanning more than 100 mu, on behalf of the Qiushan Group, a former township enterprise now under private management. Villagers were told that Jin Biao was backed by the township’s former president and current Party committee secretary, Fu Guanglu. Nevertheless, they repeatedly lodged complaints regarding the matter. When all recourse was exhausted, representatives called for a village assembly on the morning of August 30, 2002, with more than 2,000 villagers gathering in the courtyard in front of the village committee office. The village’s four roads were lined with posters, and villagers marched to the gate of the township government office chanting, “All the way with the anti-corruption movement!” But no one from the township government came out to receive them. Finally, the demonstrators marched more than a kilometer to the occupied burial ground and demolished the walls that had been built around it.

It would be hard to find a more appropriate example of Professor Yu Jianrong’s description of “resistance using the law.” Indeed, peasants’ rights representatives, and especially their leaders, including Dangxi Village’s Zhang Tingfu, have from the outset used the law as their weapon of resistance. Their compelling and reactive attitude amply highlights the peasantry’s increasing self-awareness. However, when the democratically elected village committee tried to take legal action demanding that the higher levels of government address the problem of illegally leased land, it met with obstacles.

In another such case, on October 1, 1999, the Dangjiazhuang township government joined with the Dangxi Village Committee of that time to establish a “township administration cadres’ scientific technologies demonstration base,” and signed a “land lease agreement” for the purpose of “promoting structural adjustments to the township’s agriculture and accelerating the peasants’ pace of enrichment.” The agreement leased a 38.96 mu piece of land at the rates of 300 yuan and 160

yuan per mu for a total of 539,180 yuan over 50 years. Two possible forms of payment were stipulated: 1) the township government would pay the Dangxi village committee in installments, or 2) the township government would cover the cost of five preparatory items on behalf of Dangxi village.

On March 1, 2001, 17 months after the land lease agreement was signed, the Dangjiazhuang township government signed a sublease with a third party, Zhang Yueling. According to current village committee head Zhang Tingfu, "The township government has used and leased Dangxi Village's land for four years, but it has not yet paid any rent. The township government explained to the villagers that it had instead covered the cost of five preparatory items on behalf of the village, even though the accounts show no such cost items—we just have to take their word for it. We petitioned the higher levels of government to defend the villagers' legal rights, but got no reply. We had no recourse left but to resort to courts."

On November 10, 2003, the Jinan City Central District People's Court accepted the lawsuit filed by the Dangxi Village Committee against the Dangjiazhuang township government over the land lease dispute. The case was heard on December 16, 2003, then again on January 16, February 27 and March 4, 2004. On March 29, the court rejected the Dangxi Village Committee's demand to annul the lease agreement signed by the township government.

Dangxi Village representative Wei Wenhua made these observations regarding the court's decision:

The Court upheld two claims by the plaintiff, which are that according to article 15 of the Land Administration Law, "Any rural collective land lease entered into by the original collective body or by an individual must be approved by either two thirds of the village members or two thirds of the villagers' representatives, and must also be approved by the township government"; and that according to article 52 of the Contractual Law, "The following circumstances can render a contract null and void: using a legal format to conceal an illegal purpose; damaging the public interest; or violating the mandatory rules stipulated by laws and regulations." Clearly, approval by either two-thirds of the village members or two-thirds of the villagers' representatives constitutes a mandatory rule.

In the present case, the township government was aware that a land lease agreement involving the interests of thousands of villagers would need to be examined and passed by the village assembly or villager representative assembly in order to be valid. But the township government, acting in its own interests, ignored this requirement, resulting in the loss of public land, so this lease contract should be considered null and void. And yet, this clear-cut case ended with the Dangxi Village Committee losing the lawsuit. The reason given was that the lawsuit was "detrimental to the efficient use of resources and detrimental to the economic development of Dangjiazhuang County." In the judge's view, economic development held precedence over villagers' interests, and even over law and justice.

On the same day that villagers demolished the walls of the illegally occupied burial land, someone carried out a vendetta against village representative Zhang Tingfu. At 6:00 that evening, He Linbin, a follower of Jin Yanxi, came to Zhang Tingfu's home and lured him out on a pretext. Attackers hiding outside provoked Zhang and beat him senseless, then injured Zhang's 80-year-old father when he came out to help his son. He Linbin's mother hurried to the scene and asked He in front of a crowd of onlookers and the police, "How much did Jin Yanxi pay you? Why do you stick your neck out for Jin Yanxi?"

Since that day, Zhang Tingfu has stored iron poles in his home in case of further attacks. Who would have thought that 22 years after the inclusion of villager self-administration in the Constitution, a village committee head elected by the villagers themselves would be forced to hide weapons in his own home?

On April 2, 2004, someone broke into the Dangxi Village Committee office and destroyed the furniture and telephone. A Jeep was driven repeatedly against the office's iron gate, causing severe damage. Zhang Tingfu says, "Now I don't dare go about on foot, and I never go out at night."

The village committee reported each incident of vandalism to the police, but only a perfunctory investigation was carried out. While reporting on events in Dangxi Village, this writer repeatedly asked village head Zhang Tingfu, "What gives you the strength to continue supporting peasants' rights?"

He replied, "Conscience and a sense of decency and justice." This plain statement, coming from Zhang Tingfu, is imbued with profound strength. The tea table in Zhang's home is marred by an inch-deep gash from a vicious knife attack.

Translated by Nancy Li

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1. "Dangdai Zhongguo nongminde yifa kangzheng," accessible on the Web site of China Elections & Governance: <http://www.chinaelections.org/readnews.asp?newsid=%7BB6630309-C596-466F-942B-1F81ABEB6216%7D>.
2. Yale University Press, 1985.
3. Li Lianjiang and Kevin J. O'Brien, "Dangdai Zhongguo nongmin de yifa kangzheng," in Wu Guoguang (ed.), *Jiuqi Xiaoying, Zhongguo yu Taipingyang* (Hong Kong: The Pacific Century Institute, 1997), pp. 141-69.
4. In Chinese, both phrases are pronounced *yifa kangzheng*.
5. See "Guojia xinfangju juzhang: 80% shangfang you daoli," China Internet Information Center, November 20, 2003, <http://www.china.org.cn/chinese/2003/Nov/446032.htm>.
6. For more on this survey, see "Dangdai Zhongguo nongmin weiqiang zuzhidi fayu yu chengzhang," China Internet Information Center, <http://www.china.org.cn/chinese/MATERIAL/737932.htm>, and "Diaocha xianshi, nongmin weiqiang zhongxin chuxian zhongda bianhua," *Nanfang Daily*, September 2, 2004, <http://www.nanfangdaily.com.cn/southnews/zmzg/200409020942.asp>.