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Resisting Dignity Takings in China

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Abstract. In the course of urbanization in the People's Republic of China, tens of millions of citizens have experienced expropriations of collectively owned land, expropriations of privately owned buildings, and evictions from urban land in state ownership. Summarily characterising these measures as takings, I argue, first, that some takings observed have denied evictees dignity, understood as respect for their intrinsic moral worth and moral autonomy, in addition to dispossessing them of their land and homes. Second, in dignity takings cases, monetary compensation and resettlement schemes may fail to reflect the harm done to evictees, by framing disputes over takings as (forced) economic bargains. Third, some victims unable to seek redress through judicial avenues have been driven into extra-judicial protest and resistance. In some cases, resistance can be restorative of dignity; but, where repressive state responses to resistance prevent this potential from being realised, the injustice of dignity takings can be further aggravated.

INTRODUCTION

Why have dozens of Chinese evictees set fire to themselves, or jumped from the roofs of their homes, or otherwise tried to kill themselves like Ms Tang Fuzhen, whose widely reported suicide in 2010 triggered a public debate about forced evictions and land-grabs (Amnesty International 2012, 56; Pils 2014)? Why have others resorted to violence against eviction teams, and why have some of these been celebrated as heroes? Mr Fun Mugen, for example, drew vocal support from a widening circle of evictee protesters and rights defenders after stabbing demolition team members who were attacking his family in their home in 2013; these have continued until his recent trial and conviction of intentional injury (Radio Free Asia 2015; Chinese Human Rights Defenders 2014b; Chinese Human Rights Defenders 2014a; Boxun 2014b, Yang Fan 2015)?¹ And, how to read the expression in Ms L's face when she spoke about going to see the National Land Administration Bureau official? He had barely looked at her petition, told her she was a *diaofu*, a troublemaker,² and quickly ushered her out of his office (Pils 2010). This had been the conclusion – at least for the time being -- of her years of effort to petition the authorities against the expropriation of her home and remaining land.

In this essay I attempt to understand these reactions and examine their possible rational basis by using the concept of dignity takings in the context of urbanization in the People's Republic of China's ('China's'). China has been fast developing. Urbanization began to accelerate in the late 1980s; in 2013 the government announced that some 250 m more residents would move to the cities in the next dozen years (Johnson 2013). In the course of this process land and buildings expropriations and forced evictions have affected many tens of millions of citizens, both in the countryside and in inner cities.³ Many of those affected by takings are compliant, or reportedly even happy to move.⁴ A small fraction, however – at a guess, no more than a mere few thousand or tens of thousands out of the much larger total number – have protested and resisted takings, generally without success; and of these, some have become lifelong eviction protesters, who can be found petitioning the authorities in the capital, Beijing, and other cities.

Evictee protest is laced with references to dignity, as in '*Return my home! Return my human rights! Return my dignity!*' and similar common protest phrases.⁵ Such references are also implicit in many more instances, as in this protest song by an evictee in the independent documentary film *No Private Homes in this Great Country* (Transition Institute 2012):

'Evictees are full of sorrow,

¹ Boxun 2014b reports on a seminar I attended, at which support ranged from the legal opinion that Mr Fan had acted in self-defense to his being styled a hero of takings resistance.

² This (刁妇) is a word widely used, especially by officials, to describe lower-class women perceived as obnoxious. See for a definition of the wider expression *diaomin*, trouble-making or unruly people, Baidu 2015.

³ Between 1991 and 2005, some three million rural residents a year were thought to have been affected by land takings and demolitions, an estimated total of 50-60 million as of 2007. Yu Jianrong 2009b. More recent statements mention a current number of rural evictees of ca 120 million, adducing various government statistics, as the 'most conservative estimate. Boxun 2012. No information has been made publicly available on the number of urban residents affected by building demolitions; but official statements quoted further below in the main text suggest that they likely fall within the same range (i.e. tens of millions).

⁴ Media reports have described many evictees as very pleased with the compensation offered by the government, and happy as they get to live in more modern residences. E.g. iFeng 2010.

⁵ For an example of a banner displaying such a typical protest slogan ('Get rid of black sheep [i.e. corrupt officials] as soon as possible! Return our home! Return our dignity!'), see Boxun 2014a. The report includes several pictures showing Mr Zhou or Ms Li holding up their small banner in prominent locations, such as in front of government offices and media outlet headquarters. Such 'flash demonstrations' have become popular due to the political sensitivity of even small-scale protest.

They can't protect their homes
Against injunctions and lies,
Forced sales and forced demolitions.
One should think
The people would love the People's Government.
Do not make people despair!
Who is forcibly occupying our properties?
Complaints go nowhere
In this lawless place.'

In the definition provided by Atuahene, dignity takings are processes in which a state directly or indirectly destroys or confiscates property from owners or occupiers whom it deems to be sub-persons, without paying just compensation or without a legitimate public purpose (Atuahene 2014, 23 f.). Drawing on case studies of evictee protest and resistance in China I argue here, first, that in some cases, the takings observed have denied evictees their dignity, understood as respect for their intrinsic moral worth and moral autonomy,⁶ in addition to dispossessing them of their land and homes without proper justification; they constitute dignity takings. Second, monetary compensation and resettlement schemes, if provided and implemented, may not only fail to capture the harm done to evictees in terms of their dispossession and material loss. Seen in the context of the government's rhetorical justifications of takings, by reference to national development goals, these schemes compensation and resettlement schemes can even contribute to obscuring harm done to evictees, if and insofar as they purport to reduce the problem to *merely* determining the economic value of what is taken from original residents – thereby adding to the indignity of the experience of dispossession in the concrete form it has taken in a particular case. Third, I argue that cases of protest and resistance to takings help not only understand the complexity of the wrongs such takings may involve; they also suggest that at present, victims are generally unable to seek redress through judicial avenues, and are therefore driven into extra-judicial protest and resistance. In the specific circumstances observed here, resistance can therefore take on restorative functions of a sort. But the restorative potential of resistance is generally limited by the circumstances of illiberalism and repression that have characterized the dignity taking in the first place.

In making this argument, I relate Atuahene's concept of dignity takings to the development rhetoric of the Chinese Party-State, and draw on her interpretation of dignity restoration to explore how the non-liberal setting in which takings in China occur affects the forms of restoration available. I interpret the concept of dignity along Kantian lines here, as a concept closely connected to the ideas of moral autonomy and to persons' entitlement to respect as 'ends in themselves.' (Kant 1785, 433) The dignity violations mainly discussed here are egregious failures to recognize personal dignity, understood in this way, on the part of the party-state. This approach helps explain why even in the absence of an agenda to dehumanize a discrete section of the population separated from the rest by immutable criteria, takings can be intrinsically connected to dehumanizing strategies deployed by gain-seeking political and economic elites. I argue that that for dignity to be restored in such circumstances, those affected by a dignity taking must regain moral agency as a way of reclaiming the respect they are entitled to. This argument urges the conclusion that that the appropriate reaction to a dignity taking may be entirely different from that to a simple property taking, especially where compensation as a form of restoration is not available; but it maintains a

⁶ This is a conception of dignity grounded in liberal moral philosophy, which is close to that articulated by Kant, for example, and which is in my view coherent with a rights-centred conception of property law (Dillon 2014).

connection between violations to dignity and violations to property that is essential to the concept of a dignity taking. More generally, this argument is critical of single-mindedly economic-welfare-focused ways of justifying takings in the context of urbanization, however attractive such takings may appear to the casual admirer of economic progress in China, or to those who have unlearned to see any other way than ‘like a State’ (Scott 1998).

THE ECONOMIC LOGIC OF TAKINGS IN CHINA

Until the Chinese Communist Party (‘the Party’) came into power, China’s legal system recognized private land ownership. While the Party introduced socialist land reforms in the countryside,⁷ it did not abolish the institution of private land ownership in urban areas during the first three decades of its rule. Its political rhetoric, of course, opposed (private) rights, and the very idea that land could have a market value was anathema.⁸ While its promise that ‘all farmers will have land to cultivate’⁹ had contributed to the Party’s success and victory over its rival in the civil war, the creation of mega-collectives¹⁰ called People’s Communes in the late 1950s had disastrous economic and social consequences, as tens of millions of surplus deaths occurred in the great famine of 1958-9 (Dikötter 2010).

Facing the challenge of rebuilding China after Mao Zedong’s death, the new leader, Deng Xiaoping, decided to allow the construction of a ‘socialist market economy,’ and to relegate socialism’s ultimate victory to a safely distant future.¹¹ What mattered was economic development; and Deng believed that such development required more economic liberties. This paved the way for explicit but limited state recognition of private rights and a private market in land. The post-Mao Constitution of 1982 stipulated a principle of ‘socialist public ownership,’ which meant that socialist collectives would own land in rural and suburban areas and that the State would henceforth own all urban land;¹² but private land use rights were gradually introduced. Private land ownership was entirely ruled out, and as a consequence, any remaining private urban landowners lost their ownership rights through the 1982 Constitution (Zhou Qiren 2012; Hua Xinmin 2011).

On the basis of its reform-era, 1982 Constitution (which has in the meantime undergone several revisions, the latest in 2004), China enacted legal rules, first, to create rural land use (usufruct) rights that allowed farming families to produce for private profit – liberating farmers from overbearing control by the rural collective. In urban areas, second, the State created the possibility of allotting private land use rights to individuals for the purpose of urban (residential or industrial) construction on the land. From the late 1980s, these limited urban land use rights became transferable, leading to the creation of a real estate market whose boom has been an indispensable component of China’s economic rise. The real estate market’s other component are buildings, which can be privately owned and transferred.

⁷ This meant initially, redistribution, later collective organization of land ownership.

⁸ A significant number of urban homeowners were able to hold on to their properties, despite the introduction of compulsory lease schemes run by the government, right through the Mao Zedong era. (Pils 2014)

⁹ In Chinese, 耕者有其地.

¹⁰ According to Jeremy Waldron, the idea underlying collective ownership is that ‘the community as a whole determines how important resources are to be used’ through mechanisms of collective decision-making.’ (Waldron 2003) Because of their inherently undemocratic modes of decision-making, China’s rural ‘collectives’ have been criticised as a mere façade for what is in fact control by the State, however.

¹¹ According to the reform era Constitution of 1982, China was to ‘remain in a primary stage of socialism for a long time to come.’ Preamble, Constitution of the People’s Republic of China. The Preamble quoted Mao Zedong here; but Mao had never elaborated on this phrase.

¹² Some accounts suggest that the real inspiration for these provisions came from a property tycoon from British Hong Kong. See e.g. W010w.com.cn 2012; Huo Yingdong 1998.

Under the system thus created, a property developer can acquire an urban land use right for construction from the State, represented by an urban government's land administration bureau. The State will remain the owner of such urban construction land; only the urban land use right can be circulated on the market.¹³ By contrast, rural land use rights cannot be freely traded and cannot be used for urban construction purposes, at least not in principle. Usually, the use right a property developer is looking to acquire from the State for the purpose of building (the just-mentioned 'urban land use right for construction') concerns land already occupied and used by somebody else: a land-owning rural collective, for example, or urban residents, who may be owners or tenants of the buildings they occupy, or who may simply be on the land without having documents specifying on what terms they occupy it.¹⁴ For the developer to be able to acquire the use right, the land must be in (converted to) State ownership; any land use rights former occupants may have had must be destroyed; and any previous occupants must be removed from the land to be 'developed.'

The legal mechanisms to achieve this purpose are land expropriations (*tudi zhengshou*) turning collectively owned land into state-owned land; 'resumption' (*shouhui*) of ownership of urban land, which the State owns already – 'resumption' means that any previously existing land use rights in such land will be destroyed --; and building expropriations (*fangwu zhengshou*) of privately owned buildings on the land to be 'cleared'. Laws and regulations from the 1980s onward, including the 1988 Land Administration Law, the 2007 Property Rights Law and the 2011 State Council Regulation on Expropriation of Buildings on State-owned Land, introduced procedures to expropriate rural and suburban land-owning collectives or private owners of buildings in urban areas, and to evict occupants. The result of these processes is state-owned land that becomes available to be used for construction purposes; the State can now grant urban construction use rights in such land to property developers.

Most if not all urban and infrastructure construction relies on the mechanisms of expropriation, 'resumption' of ownership, and eviction for the purpose of building demolition (in Chinese, often referred to as 'demolition and relocation,' *chaiqian*). This is why there are such large numbers of people affected by these measures, which I call, in sum, 'takings' in the following. While in other jurisdictions, much of urbanization can occur through private transactions between original residents and property developers, many of these processes are necessarily state-driven and state-controlled in China. (This by itself does not constitute a compelling argument against the current system in China since, of course, private transactions in other jurisdictions are not necessarily a better alternative. They can be structurally unfair, for example.)¹⁵

The abovementioned legal rules contain some language reflecting the sort of justifying requirements that can be found in liberal rights documents across the world (e.g. the Universal Declaration of Human Rights).¹⁶ For example, they stipulate a requirement that

¹³ Scholars argue about whether the urban land use rights acquired in this process come close to absolute fee simple rights over land, despite the always available option to expropriate or 'resume' full ownership rights over land and buildings. See Clarke 2014.

¹⁴ For historical reasons, such undocumented situations seem to be rather common. For example, at certain times during the Mao era, citizens may have destroyed documentation to avoid being branded as enemies of the people.

¹⁵ It should also be noted that there are many semi-private land transactions in the grey zones between legality and illegality in China, whereby property developers or individual buyers informally 'acquire' land or buildings that remain in collective ownership. Chinese law does not allow such transaction and consequently does not recognise any legal rights in land acquired in this way, however. 'Rights' in land thus acquired are euphemistically called 'minor' property rights (Upham 2009; Pils 2010; Pils 2009).

¹⁶ Article 17 (2) of the Universal Declaration of Human Rights, of which the PRC was a signatory at the time of the 1982 Constitution, reads 'no one shall be arbitrarily deprived of his property.'

takings must serve a ‘public interest need.’ They also trigger obligations to compensate those affected, even though the rules on compensation have been criticized for being too limited. According to the law, compensation to evictees is basically calculated as lost putative agricultural output in rural and suburban areas; while in urban areas, compensation is for the market value of the buildings taken from urban residents, but not the land these buildings stood on. In neither case is compensation calculated on the basis of the market value that land will have once it becomes part of urban real estate; it will generally be a fraction of that value (Lei Chen 2014; Pils 2014). However one views these rules, they can in many cases be flaunted with impunity, for systemic reasons. ‘Public interest’, especially, hardly imposes any effective constraints, as discussed below.

The rules created in the Reform and Opening era have allowed for extensive State-orchestrated land redistribution, whose legitimation can draw on a simple economic growth consideration. A property developer who can build a high-rise luxury building where the homes and fields of villagers stood, will be able to bring greater economic benefit -- measured in money -- to the nation, even if these villagers did not want to move, and even if the government taking the land and giving it to the developer paid them less compensation (or, theoretically, no compensation at all).¹⁷ This will, according to a purely economic cost-benefit analysis, have created new wealth in the nation through the construction process, the real estate market, and so on. State-ordained changes of land use have worked very well for GDP growth as well as for the Party-State and the elites it nurtures, and arguably for more general prosperity. Urbanization has also made the State a recipient of substantial revenues generated through the granting of urban construction use rights. From the perspective of economic efficiency and overall national growth, it need not matter that there are individual losers and winners. Even non-monetary losses can theoretically be accounted for in such a calculation, to the extent that economic analysis has come up with ways of measuring them in monetary terms; and even if we factored in the by most accounts endemic and serious problems with land-related corruption (Zhu Jiangnan 2012), cost-benefit analysis might still produce the same result.

In contrast to settings where expropriations are exceptional occurrences, however, this kind of cost-benefit analysis, in which ‘development’ is pre-defined as beneficial to national goals, will mean that the State should reserve the power to take and redistribute land in large quantities at any time. To the extent that it does so, the very idea of (private) property rights in land, a constitutive part of any liberal economic order, is rendered more fragile. This fragility is – I would argue -- a further implication of the hybrid and non-liberal nature of the legal-political system in China. According to the scholar Peng Chun, the academic mainstream in China, adopting what he calls a (false) ‘transition paradigm,’ seeks to interpret the laws in the light of liberal principles, and evidently, the language of the law with its references to rights and public purpose requirements, etc., points to such premises. But, according to Peng, there is a line of continuity from the first PRC Constitution of 1954 all the way to the 1982 Constitution as last revised in 2004. Understanding this continuity will allow us to understand that, as he puts it, the idea at the foundation of the Chinese approach is that:

‘Expropriation is...not an extraordinary event to be strictly limited, but an ordinary occurrence to be encouraged and guaranteed. From the perspective of landowners,

¹⁷ The economists Kaldor and Hicks have argued that hypothetical compensation is sufficient to satisfy the efficiency requirement of efficiency when assessing transactions. The economic test is whether the exchange is financially beneficial to the community. Impounding property, say, to build a hydro-electric scheme, can clearly produce greater wealth for the community. In general, involuntariness is irrelevant. See e.g. Kaldor 1939. Note that this example does not involve expropriation but, rather, a decision to abolish duties on grain imports that would affect domestic farmers.

since they are socialist citizens...obligated to discharge their social responsibility, dispossession by the state is neither a sacrifice or a transaction but an honourable duty that reaffirms and reinforces the fundamental and long term harmony between individual interest and the common good.’ (Peng Chun 2015)

THE EFFECTS OF TAKINGS ON DIGNITY

Urbanization-related takings in China have been ‘dignity takings’ in at least some cases, for reasons the first three of which apply widely (albeit to different degrees of severity) whereas the others directly only affect specific groups, such as those who protest or resist. I outline this argument briefly below.

Denial of ‘say’

First, the property regime leaves citizens little say in what happens to the land and homes which they justifiably consider to be -- at least in some important moral sense -- theirs. This problem is related to the fragility of private rights as well as the enormous difficulties with giving genuinely restricting and limiting force to the concept of ‘public interest’ in the contexts of China’s politico-legal institutions and economic development trajectory.

There is, to be sure, no shortage of scholarly discussion of the concept of ‘public interest,’ which is enshrined (since 2004) in the PRC Constitution as well as many further laws and regulations. Not only has much been written about its definition; there have also been periodic attempts to write further concretizing and narrowing definitions into legislative texts, such as the 2011 State Council Regulation on Expropriation of Buildings on State-owned Land [i.e. on urban land]. The reason why such attempts are thought to have had little effect is not merely that the rules contain elastic categories such as ‘renewal of dangerous and dilapidated buildings’ (Article 8 clause 5). It is also that all state-controlled mainstream discourse is very supportive of ‘development’, conceived widely, and that in many situations, urbanization can *only* happen through a takings process, because (due to the abovementioned restrictions on private ownership and transactions), there is no alternative to takings. As a result of all these factors, property developer Ren Zhiqiang observed without irony in 2010 that

‘There is no such thing as demolition and relocation that is not in the public interest. As long as it is [for the purpose of] urban construction, it is in the public interest.’ (Yang Ming 2010)

Perhaps most importantly, courts of law appear unable or unwilling to give effect to whatever restrictive meaning the phrase ‘public interest’ might possess. I have not, to date, come across a case in which a court of law effectively and lastingly stopped a taking from going forward, or ordered the government to return land it had taken, on the grounds that the project was not in the public interest, although in some instances, litigation has delayed such processes. Many evictees who try, cannot even get their cases into court (the court will ‘not receive them for further processing’ (*bu yu shouli*) – this is why they resort to petitioning administrative bureaux and Party offices, as Ms L did in the case mentioned above. Those who succeed in litigating at all generally find that the courts will at most address the issue of compensation and resettlement standards, but not the more fundamental issue of the legality of the taking. Moreover, procedural law renders court injunctions to halt a demolition project an in practice

rare exception (although at least in urban cases, the law now provides for such injunctions); and demolitions may go forward even when litigation about the building in question is pending (Lei Chen 2014; Pils 2014).

Since evictees are unable to make the argument that a taking is not in the public interest, and therefore unlawful, they have no say in the basic decision to take, clear and demolish their land and houses. They may, it should be stressed, be able to influence arrangements concerning the compensation and resettlement packages they are offered, and to which they are legally entitled. All evictees are asked to sign ‘agreements’ (*xieyi*) about their individual cases. In some places, especially the more developed cities in the East and West, local governments may also conduct polls to gauge the affected residents’ acceptance of proposed compensation/relocation rules; and local rules may stipulate a required percentage of residents, such as 95%, to accept the proposed ‘deal’ as a precondition of a taking going forward (Li Xiaoxiao 2015). It is telling that the percentage is apparently *always* reached, albeit sometimes after protracted negotiation, for reasons further discussed below.

The requirement for agreements on compensation and resettlement obscures the troubling lack of say in the takings process: for one thing, although the authorities are intent on getting evictees to sign these ‘agreements,’ they can issue forced demolition orders against those who refuse and resist; therefore evictees have no option just to say no. Against the background of this fact, it is relatively easy for the government and its often unidentified helpers to pressurize residents. In the effort to obtain ‘agreements,’ demolition team members can be very dismissive, according to evictees’ testimony.

‘I was really upset. There was no protection for our rights. And they were so coercive [*qiangzhi*], so evil. They were threatening and intimidating you and absolutely wouldn’t discuss with you. “You’re supposed to want as much [compensation] as we are willing to give you. The fact we’re talking to you now is already an honour for you, it means we’re already showing you respect.” That was their attitude. It was really unacceptable. It made me want to fight them... “I don’t trust you. You can’t just boss us around.”... Those were unidentified thugs hired by the Demolition Office. We didn’t get to see any officials to speak to at the time.’ (#51 2011-1) ¹⁸

For another, those who accept the ‘deal’ they are offered submit to the state’s perspective of takings as touching only residents’ material or economic interest – *liyi*, and therefore being a conflict merely about ‘price’. Two lawyers with ample experience working on evictions and expropriations commented as follows on different occasions, for example.

‘In *chaiqian* cases it is really a matter of compensation amounts. And so the proper method and the lawyers’ attitudes will not be the same as in other matters. It is the same with the client. They want to maximize what they can get.’ (#51 2011-1)

And:

‘Those who really don’t want to leave are extremely few. The government usually finds some way of getting them to leave. These are issues of negotiation.’ (#39 2012-1) ¹⁹

As these lawyers’ comments suggest, framing eviction and expropriation issues in this way means to analogize them with the market choices of rational actors with a preference for maximizing ‘interest’ while minimizing loss, even though the ‘transaction’ in question occurs

¹⁸ #51 2011-1 17’30’’.

¹⁹ For a discussion of strategies in eviction cases, see Zheng Jianwei and Cang Hai 2010.

against a background of one party having no option to reject the deal. A related idea, also often deployed in this context, is that of *boyi* – a game of contending forces decided in a process dependent on power, not rights (Wang Qingren 2010).

Of course, it is true that there is a lot of conflict about monetary compensation. As mentioned above, neither in rural nor urban settings is the prospective price of the land after it has been turned into high-value real estate to be taken into account; the great gains made from this change in land use do generally not accrue to the benefit of the original residents; and as residents see these profits go into somebody else's pockets they also, in many cases, suspect corrupt dealings further enriching developers and officials involved; or, as the case may be, they see their neighbors get better compensation than they themselves. But, the fact that there are such conflicts does not mean a takings process can be reduced to them, or that money and resettlement can adequately compensate the harm done to evictees in all cases. Rather, in public discourse, *liyi*-framing – the implicit assumption that conflict over takings can be so reduced – can be used to portray those who talk back, protest, and resist as people who simply 'want more' and are therefore greedy and anti-social, as discussed further below.

Countering the suggestion that eviction and expropriation conflict was just about *liyi*, another lawyer said,

'These issues do not merely concern *liyi*, they do not merely have to do with money. They directly concern the right to speak (*huayuquan*)...' (# 2014-1)²⁰

This point is driven home most eloquently by those who suffer the consequences of demanding a 'say' in the process which the authorities do not want to allow them, as discussed further below.

'Education' and 'thought work'

Second, the State has used 'educational' language that tends to infantilize evictees, assuming a relationship of tutelage between the Chinese state and these citizens. The State's educational message to evictee citizens is, of course, that they ought to accept the taking because it is good for national development -- that expropriations and demolitions are necessary to support growth and that the Party-State has the authority to make rules as it sees fit to achieve these goals.

It is in this context that the anti-liberal foundations of the Chinese political-legal system are particularly obvious. In line with the authoritarian and statist conception of expropriation as constituting neither a sacrifice nor a transaction, banners and billboards at eviction sites read, 'Support the National Construction Project,' (Banner 2009) 'Thoroughly Implement the Scientific Development Perspective, Build a World City with Chinese Characteristics!' and 'March Ahead in Solidarity, Revive China, Love the Motherland, Build the Motherland!' (Billboards 2013), and so on: they exhort evictees to subordinate their individuated goals and interests to those which allegedly serve the Nation.

The general message these kinds of slogan propagate is reinforced by the use of what in Chinese is called 'demolition and relocation thought work' (*chaiqian sixiang gongzuo*) to 'persuade' evictees to 'agree' to the conditions they are offered. Domestic scholarly and news media essays have addressed the question of how best to perform such 'thought work' on

²⁰ This lawyer continued to comment that 'the government uses violent demolition and relocation, because that helps them bring up the GDP. It's a very simple logic.' (# 2014-1)

evictees, advising officials involved in this work to be patient, for example, as well as not give in to favoritism toward selected evictees -- and above all, not to give up:

‘When encountering failure to understand and comply from individual residents, when facing closed doors and evasiveness, or over-the-top haggling, or even sarcasm and verbal abuse from some evictees, staff [engaged in thought work] must always wear a smile on their faces. They must try several dozen times or even a hundred times to enter these homes and patiently and carefully explain matters to the masses [a Communist Party term for ordinary people] through reason, move them through feelings, and enlighten them through the law. They must use sincerity to win the masses’ understanding, support and compliance.’ (Lin Jun, Zheng Junsheng and Pan Yankun 2010)

Expression such as ‘thought work’ (*sixiang gongzuo*) and ‘mass work’ (*qunzhong gongzuo*) are part of the official vocabulary of the Party-State, whose educational approach to ‘the masses’ is based on Marxist and Maoist conceptions of the responsibility to inculcate correct political views and eradicate incorrect views, as a way of changing society.²¹ These ideological foundations and the moral language of these admonitions notwithstanding, they also give a sense of the intrusiveness and relentlessness of ‘persuasion’ to accept the ‘agreement.’ They point to a kind of faux paternalism, the purported assumption that acceptance will make the evictee who allows themselves to be ‘persuaded’ a better person. IN presupposing a relationship of tutelage between the government and the people, this is the very antithesis of enlightenment views of a dignity centered in moral autonomy. People undergoing ‘thought work,’ on this account, will become more aligned with the national goal, even though the precise content of this goal may remain quite nebulous, and it may in specific cases be obvious that a particular eviction and demolition serves private goals (as much as public ones).

Government officials use further techniques to reinforce their efforts to ‘persuade’ evictees to ‘agree’ to compensation and resettlement deals. O’Brien and Deng have used the term ‘relational repression’ to describe one of these methods whereby ‘municipal demolition offices turn to resisters’ relatives who work for government bureaus, state-owned factories, schools, and hospitals’ and pressurize these into agreeing ‘to cajole their family members into signing demolition agreements, often by tapping into “feelings of affection” and emotional blackmail, a process sometimes referred to as ‘harmonious demolition’ (O’Brien and Deng Yanhua 2015). Significantly, officials drafted into ‘persuading’ their subordinate co-workers to accept ‘agreements’ may be told that they are responsible for these subordinates as their ‘children’ (*haizi*). The authors point out that these methods can be combined with collective punishment, which accords with my own observation – for instance, Ms L, mentioned above, was told that continued resistance would prevent her daughter from attending a state school in the city she lived in (Pils 2010). Even as they pressurize target persons in this way, officials will generally adopt an educational and moralizing tone.

Although relational repression appears to be effective in many cases, it does not always succeed, and there often remain some recalcitrant households, generally termed ‘nail households’;²² the cases of Tang Fuzhen, Fan Mugen, Ms L, and the eviction rights defender mentioned above are such ‘nail household’ cases. Children who don’t listen must be beaten until they have got the message, according to a traditional-authoritarian conception of

²¹ To quote Mao Zedong (毛泽东): ‘It is man’s social being that determines his thinking. Once the correct ideas characteristic of the advanced class are grasped by the masses, these ideas turn into a material force which changes society and changes the world.’ Mao Zedong 1963.

²² In Chinese, 钉子户.

education; and in the history of the PRC ‘thought work’ has, at certain times, led to more invasive techniques that become known as ‘brain-washing’(Lifton 1961). The reality of ‘education’ about supporting National Development has a similar, darker side to it, as the headline ‘Evictee claims to have been imprisoned, beaten; township head: we were merely carrying out thought work’ in a domestic newspaper earlier this year well illustrates (Sun Zunhui 2014). ‘Education’ in such contexts is intrinsically connected to threats, coercion and violence, as discussed in the following.

Violence

In rural, suburban and urban taking processes I have observed for case studies, the reality of takings created a climate of fear, sometimes rendered more acute by threatened or actual violence intended to break resistance.

In fieldwork, I have interviewed evictees detailing violence they or their neighbors had suffered. For instance, Ms L’s husband was attacked by unidentified thugs (Pils 2010). Her neighbor, from a nearby village, was found dead the morning after he had gone to speak to people on the village committee, an entity effectively representing the State; he was found hanging from a tree, but had not been killed by hanging (Boxun 2011). I have also seen the members of ‘demolition and relocation teams’ in other locations. They were usually burly young men hanging out in the neighborhood, watching. In one or two cases, those I had met were later ‘spoken to’ by these men, and in one case such a team alerted the police who briefly (and illegally) detained us at an eviction site. Eventually, I stopped meeting anybody in the neighborhoods where demolition and relocation were taking place. Evictees and rights defenders, however, continued to provide often vivid evidence of the climate of fear they lived in. The above-quoted evictee rights defender, for example, described her experience as follows.

‘The demolishers have many methods to handle evictees. They will first go to the village heads and give them a bit more to get them to move out, that makes the other villagers fidgety, and they will feel they ought to get out sooner too to secure better compensation. The ones who are fearful will move, one after the other. But that’s just cheating them! In reality, they may not get that much, but they’re honest and simple people, so they’re easy to cheat...By the time only a part of the residents is still left, just over half, the Demolition Office and Developers will bring in the thugs to intimidate those who are left. They will scare and threaten people, and use foul language, all kinds of methods. They will also continue to erode solidarity and offer secret deals [to individual households]. “Here is what I can offer you; but don’t tell anyone else! This is definitely more than the earlier ones got.” They will also use that sort of trick, until only some diehard holdouts are left. We’re just seven households left now.’ (#51 2011-1)

In the film *Emergency Shelter*, the inner city evictee rights defender Ni Yulan describes vividly how she felt that her neighborhood had been ‘invaded’ as though by foreign soldiers, to give another example. (He Yang 2010) In very similar terms, the above-quoted rights defender describes her and her parents’ experience when the Demolition Team stepped up the pressure on them by partially destroying her parental home, located in a more rural setting.

‘They said they were there to demolish illegally erected buildings, but that was a pretext. Who ‘demolishes illegal constructions’ at midnight?! There were many of

them and they were carrying sticks and batons. The moment they entered your house they smashed your windows; and they also smashed our door. They kept smashing the windows and they also had people to threaten and intimidate people. That was the situation. Many people [in the neighborhood] were frightened and dared not come out. But my Mum did. She stood outside all by herself and argued with them. Because she was an older woman they [the thugs] didn't dare to be rough with her, they couldn't afford someone dying – in fact, they are scared too. My Mum kept scolding them. She was very upset, because they had smashed larger items in the household, and the main door of our home.²³ Initially I did not know about this incident but I rushed over when they told me, and called the police. They took a long time to come...and the police didn't want to get involved. We were very afraid. My Mum was, too.

And my maternal grandmother, she was over ninety at the time. It came as a terrible shock to her, and she fell ill and died not long afterward. After that, they blocked and damaged the road [that provided access to the family home] and cut off the water. The road became very rocky with many potholes, and hard to navigate. One day my Dad, who was around seventy, slipped on that road and fell from his bike and fractured his leg bone. That was their fault, too! But when we called the developer and asked for compensation, they would not listen to us. We went to many departments, but no one listened.' (#51 2011-1)

His experience also resembles that of Ms L, whose house stood gutted and covered in protest slogans, uninhabitable, for several months before it was ultimately demolished. In the abovementioned case of Fan Mugen – a 64-year-old retired soldier facing forced eviction in a small rural part of the eastern Chinese city of Suzhou²⁴ - thugs also reportedly attacked his 'nail household' while he was not at home. They threatened and verbally abused his wife, Gu Panzhen, and took away a kitchen knife and some rakes, which they threw into a well. One night, when Fan Mugen was almost ready to sign an 'agreement' about his removal with the government, unknown thugs smashed his window. Their son recalls that this incident 'terrified' his mother.

'The next time my father went to speak to [the authorities], the compensation they offered had been lowered from 750,000 RMB to 710,000 RMB.' (Li Xianfeng 2013)

After that, Fan had refused to sign the agreement.

Beyond the commonly used threatening presence of (in some cases, uniformed) men and targeted uses of violence, evictee rights defenders have also described more creative methods. One, in an unrecorded conversation, described to me how a demolition team on the outskirts of Beijing had at one point nailed a small kitten to a tree, using its dying meows to terrorize the neighborhood. Media reports have also discussed the release of scorpions (Wantchinatimes 2010) and snakes (Mu Tangchun 2009) to induce terror, and in 2015, the media reported that persons infected with the HIV/Aids virus were being used, in a doubly degrading way, as members of eviction teams to intimidate recalcitrant evictees (Caixin Magazine 2015).

In addition to such violence and threats of violence in the immediate context of the takings process itself, more - and closely related -- violence occurs in the context of dealing with those who complain about the legality of takings to higher authorities, as a way of breaking their resistance. Thus, in their attempts to control petitioners (*fangmin*), many of

²³ Probably a rural courtyard home in the northern Chinese style.

²⁴ Tong'an in Huqiu District of Suzhou City, Jiangsu Province (江苏苏州市虎丘区通安镇).

whom petition about takings, officials may resort to locking them up in the context of programs euphemistically known as ‘study classes (*xuexiban*)’ (Duihua Journal 2013). (Ms L too was at one point locked up in a ‘study class,’ according to an online communication in late 2009.) The euphemism ‘study class’ is telling. It shows the fluidity of the distinction between education and coercion, persuasion and violence, from the perspective of an authoritarian-minded government that treats (some) of its citizens as trouble-making children who require require education, disciplining, or (as briefly discussed below) medication. This attitude is also exhibited by an official interviewed in the abovementioned domestic news report: the official in charge of the local Land Expropriation Office (*zhengshouban*) dismissed claims that he had locked up an evictee for ‘thought work’ purposes, subjecting him to humiliations such as having to relieve himself in the room where he was detained:

‘As for the [alleged] subsequent “imprisonment” Zhang Zhigang felt quite wronged [by the allegation] and said, “The demolition and relocation work had already dragged on for over two months [beyond the deadline set by the government] and so this time around *he was taken to that place to win him over, to carry out thought work on him. That can’t be called imprisonment.*”’ (Sun Xunhui 2014, emphasis added)

Overseas newspapers and NGOs not subject to domestic censorship have documented the use of violence and humiliation more widely (Chinese Human Rights Defenders 2010). The case of rights defender Ni Yulan, again, may serve as an example for the length to which such measures are taken; she describes not only how in the immediate aftermath of her trying to challenge the lawfulness of the forced demolition of her husband’s family home, she was taken to a police station and beaten so badly that she became wheelchair-bound. She also tells of her later experience in prison, serving a sentence in consequence of her wider efforts to resist takings, where she says she had her crutches taken away from her and was forced to crawl (He Yang 2010).

Cases of casual violence, deprivation of liberty, torture and degrading treatment do not apparently affect very large numbers of evictees – certainly not all of those who protest or resist; but the possibility and threat of violence are likely to have a broader effect, and can in certain settings be pervasive. Autonomy and dignity (as understood above) are incompatible with a climate of fear. To the extent that fear constrains them, for instance when they sign an ‘agreement’ to accept a certain compensation and relocation package, the autonomy of those who live in fear is diminished; they are not truly and fully themselves.

Discrimination and degradation as ‘low-quality’ people

Fourth, as case studies such as that of Tang Fuzhen and of the case of Ms L have attempted to show, protesters and resisters have in individual cases not only been denied access to justice. They have in some cases also been humiliated, persecuted and marginalized in retaliation for their efforts to get justice; and their marginalization is related to wider problems of legal and social discrimination.

Marginalization and discrimination in Chinese society occur along various fault lines, they affect different groups in different contexts; and they sometimes take on the traits of racialization of particular social groups. These groups include, for example, ‘peasants’ and ‘peasant migrant workers’ (*nongmin*, *nongmingong*) as well as people from certain provinces perceived as ‘backward’ (e.g. people from the province of Henan in other parts of China), and more widely those perceived to be of ‘low quality’ (*suzhi di*), as a well-developed body of academic literature shows.

Peasants in the present context are both socially and legally disadvantaged. The rules governing rural takings mean that legally required compensation for their land is measured in terms of lost agricultural output; this set of rules caps compensation at a standard that may fall far short of the land's prospective market value and is generally considered to be lower than what urban residents get (a perception which is important, independent of whether it would be borne out by statistics, if available), while also consolidating their social and economic status as peasants tied to the land.²⁵ A closely related set of rules legally cements peasants' ties with the rural collectives in their place of household registration; and such differentiating legal rules contribute to their treatment as second-class citizens in other contexts, for instance when it comes to access to public services.

Not only peasants are affected by discriminatory treatment, however. Urban residents, too, may suffer discrimination, so far as they belong to the original residents of an area to be 'cleared' and made ready for the granting of new land use rights. Like their fellow peasant evictees, these urban evictees for the most part belong to a class of people who acquired occupancy under an older, somewhat incoherent, and now largely discarded politico-legal land tenure regime; and rather like an indigenous population subject to colonization, their removal from the land they lived on is made possible by the creation of new land use rights, which they could in most cases only acquire in theory. They may have urban residency permits and urban jobs, but are often separated from those who will acquire usufruct rights in the land they used to occupy or buy homes built on that land by economic conditions. Many are unable to afford to move back to areas from which they have been evicted, once these areas have been transformed into new urban real estate; although in some cases, urban governments build (or promise to build) 'resettlement' blocks in the area from which these residents have been evicted.

The segregation of urban and rural population groups thus intersects with that of increasingly disparate economic classes. It is not tied to factors as stable as 'race' or caste; but in the lived experience of those discriminated against it may nevertheless be hard to change. It is an indication of such relative immutability that legal and economic segregation on grounds of household registration, access to social services, and widening wealth difference are aggravated by social discrimination and an officially supported, mainstream discourse about 'population quality' (*renkou suzhi*), according to which large parts of the current population are at an inferior cultural, educational, and moral level.²⁶ The perception – or perhaps it would be more accurate to say, the strategic denigration -- of peasants as people of lower quality, for example, is implicit in the many official and semi-official studies concerned with the question of how to 'raise the quality of the rural population' (*tigao nongmin suzhi*),²⁷ as well as in organized programs to teach new urban dwellers from the countryside how to be 'civilized urban people' (Smith 2014). Discrimination on such varied and intersecting grounds certainly does not mean that *all* the tens of millions of citizens affected by takings will be relegated to a lower social class, nor indeed that the middle class affluent are entirely immune from demolition (Jacobs 2011). But it helps understand the complexity of social, legal and economic inequalities at play; and in doing so, it suggests that we must expect dignity violations to occur in a wide variety of social contexts, including the present one of strategic degradation. Dignity is violated here through the categorical assumption that those affected lack 'quality' and are therefore *beneath* the more respectable and adequate classes.

²⁵ E.g. in Liu Zhengyou 2003: 'Mayor Luo Linshu said: "Peasants just can't get the same 'demolition and relocation' treatment as urban residents. That's a policy decision. No mayor can change anything about it.'"

²⁶ *Locus classicus* of scholarly discussion is Rachel Murphy (2004). Low quality is frequently but not exclusively ascribed to the rural population.

²⁷ A Google search using this keyword (提高农民素质) yields some 1,240,000 results.

This analysis may also throw light on certain more targeted uses of takings against discrete social or ethnic groups, which for reasons of space will only be briefly mentioned here. Thus, in a context closely related to the just-discussed one, local governments of larger cities have repeatedly used ‘demolition of buildings erected in violation of laws and regulations’ to demolish privately established schools for migrant worker children, who are generally unable to access the better, state-funded public schools in the cities, and whom such measures force ‘back’ to their parents’ hometowns for schooling (Zhao Han 2015). Especially in areas or provinces with large Christian populations, demolition has affected privately erected church buildings and crosses (Christian Solidarity Worldwide 2015); and in some areas, the authorities have demolished ethnically relatively homogeneous urban areas such as those occupied for centuries by Uighur Muslims in Kashgar in Xinjiang Autonomous Region (Szadieswski 2012).

Having postulated economic development as overriding national goal and insisting that individuals must subordinate their interests to the common good, moreover, challenges to takings can themselves become a reason for (further) marginalization; and discrimination and abuse on grounds of being a perceived querulant can be severe, especially against those who engage in repeated petitioning and litigation. (Petitioning in an acknowledged large proportion of cases is over land-grabs and evictions (takings).) Influenced, at least in part, by the continued use of psychiatric categories such as ‘litigation paranoia’ (Parry and Cui 2010), officials, developers, and other members of social elites exhibit an at times remarkable reluctance to acknowledge the legitimacy of protest and complaints against evictions. Protest can be either relegated to the realm of insanity that requires to be treated; or it is interpreted as rational but selfish and asocial. Both forms of labelling have marginalizing effects that may be used to rationalize further coercive measures such as detentions, ‘treatment’ and the suppression of reporting on cases of protest behavior (effectively obliterating such protest); and awareness of the use of such techniques is by itself alienating and intimidating, even if rumors may be exaggerated in a particular case.

‘Here in [our city] they’re demolishing like crazy right now. They hire thugs to go after you until you ‘consent’ to signing your agreement. If you don’t they may abduct you and make you take medicine that will dull your senses, so they can force you to sign.’ (#98 2009-1)

In the above-mentioned case of Ms Tang Fuzhen, who committed suicide in protest against the taking of her home and the violence done to her family, an official, Zhong Changlin, described her action as having ‘put her own interest above the public interest,’ insisting that he had nothing to feel sorry about. As the legal sociologist Yu Jianrong wrote critically commenting on this case:

‘I feel there are several possible reasons. First, after being steeped for so long in obsolete bureaucratic jargon that is completely removed from the public, his thinking has been set into a fixed pattern that regards all of the government’s actions as correct, as a result of which his own actions become justified. Put simply, Zhong Changlin has been “systemized.”

Second, there is a lack of a modern mentality toward concepts such as government authority and citizen’s rights. For example, he appears to believe that the public interest is more important than personal interests, and perceives Tang Fuzhen’s defense of her rights as opposition to the law, from which he uses Tang’s “immoral” and “unlawful” conduct to assert the correctness of his own. Third, social bifurcation has already provided a mental construct of “us” and “them;” and the classification of

individuals results in a lack of sympathy that strips “them” of their humanity.’ (Yu Jianrong 2011 a)

The wide acceptance of this discourse may explain why officials can find it so easy to dismiss evictee criticism as mere unruliness from those of ‘low quality,’ who require to be elevated to a higher level, for example through ‘thought work’ performed on ‘the masses.’ Ms L’s experience mentioned at the beginning of this paper may serve as another example. Her protest was regarded as troublesome (unruly) because it contradicted the State-endorsed cost-benefit view of takings and was therefore considered incorrect; but it was only because she was also a (rural) woman of limited education and a petitioner that she was called a *diaofu*. The willingness or indeed perhaps the psychological need to see one’s fellow citizens as low-quality-people explains, at least to some extent, indifference and unwillingness to pay attention to large-scale rights violations, as long as they affect only ‘them’. The perception of petitioners as vexatious and ‘low quality’ also explains why some of them, in turn, have forged a new social identity out of their status as petitioners – a self-described fifty-seventh Chinese ethnicity, as Yu Jianrong observes -- the tribe of *yuan* or ‘tribe of the wronged,’ *yuanmin* (Yu Jianrong 2007).

DIGNITY RESTORATION THROUGH RESISTANCE?

For Atuahene, an important purpose of her analysis of dignity takings in South Africa is to consider the question of redress. Analyzing the options of restitution and restoration, she argues that process is especially important to ensure forward-looking and restorative forms of redress to victims of dignity takings, (Atuahene 2014, Chapter 3) and to ensure the restorative function of communication, even though restitution awards as outcomes are also very important (Atuahene 2014, Chapter 5). As procedures and institutions such as the judiciary and administrative bodies typically differ in what they emphasize (with judicial institutions typically looking backward and focusing on outcomes), responsible political actors seeking to redress past dignity takings must make choices accordingly.²⁸ In post-apartheid South Africa, these choices could be made, even though we may critically discuss how they were made. They could be made, because political change had resulted in public recognition, at least in principle, of the wrongs of the past, and because there was some reliance on the ability of public institutions such as courts of law to uphold the rule of law.

A political-legal system such as the Chinese one, by contrast, presents different challenges, which also affect the available options for dignity redress. For one thing, as already observed, takings in China are not really exceptional; and the violations of dignity directly associated with some takings processes, while by no means affecting all takings, yet appear to characterize the experience of ordinary Chinese evictees who are not set apart from others by race or similar factors. If in the South African example, dignity takings represent an exceptional category of cases *within* an already exceptional setting – for, in any liberal economic order, the forcible taking of property by the state is by itself exceptional – dignity takings in China are an integral part of the ‘normal’ process of urbanization and infrastructure-building. They are a manifestation of party officials’ conception of their relationship with the people, according to which large-scale takings are ‘to be welcomed’ by the people (Peng Chun 2015). From the perspective of liberal political morality, this conception denies dignity – theoretically – to all and any Chinese citizen, by subordinating

²⁸ Atuahene argues that while in South Africa ‘the move away from the court-centred process dramatically increased the number of claims settled, it led to ..new structural defects...’ (Atuahene 2014: 63 f.)

them to party-state goals such as national greatness; or in Kantian terms, by treating them as means to an end whose definition lies with the party-state.

For another, redressing dignity takings presents special challenges. State-provided avenues of redress, such as litigation and petitioning, are themselves sources of dignity violations, as outlined earlier; and redress in the form of tangible judicial or administrative outcomes is hard to come by. In the non-liberal conditions of the current system, it is generally possible for local governments, developers and other actors they collaborate with control the judicial process and its alternatives; or to control access to justice. As a consequence, evictees are not able to secure redress for their (alleged) injustices, or are able to do so only to a limited extent, for example, by judicial decisions awarding better compensation. As argued above, this outcome can have contradictory implications. It may on the one hand improve the material situation of an evictee, and on the other hand have the effect of affirming a degrading, reductive conception of their loss as merely economic in nature.

Evictees can, however, use these avenues as one of many *processes* in which they can seek dignity restoration. They can use them to express complaints and, up to a point, to gain rehabilitation in communities of opposition to the system and, perhaps, in wider society. It is in this context that the idea of dignity restoration becomes important, even though, as I argue in the following, it is severely limited by political conditions. Going well, it may help to integrate, conciliate and empower; but, going badly, it may produce contrary effects.

Such resistance as is possible generally begins with the official processes and avenues of redress, that is, in and outside courtrooms and petition offices. For example, petitioners seeking to get their land-grab and eviction cases filed by the judiciary in Shanghai have staged demonstrations outside court buildings, shouting ‘I Want To File My Case’ in unison (Epoch Times 2011). Similarly, evictee rights defenders and lawyers have described their efforts to present their views in court proceedings, even though the judicial institutions and procedures as such did not provide space for so doing. Thus, an evictee rights defender spoke of her gathering fellow petitioners in the court building to make a racket, demanding to speak to the Presiding Judge (#51 2011-1), and loudly reading out a deftly worded statement accusing the authorities, particularly the judges in the case at hand, of corruption (Pils 2014: Chapter 4). A lawyer representing evictees encouraged his clients to send written assessments of the ‘performance’ of judges in specific takings case hearings to judges’ superiors (#6 2014-1). In all these cases, evictees reacted to their experience by talking back, by claiming a voice within the judicial process, even as they were challenging the highly restrictive design of this process.

As the occurrence of takings under such conditions contributes to the creation of a class of displaced, disaffected and disenfranchised citizens in China, takings also fuel wider resistance that abandons the focus on particular legal or administrative proceedings, spilling from court buildings and petition offices out into the streets. Most importantly, land disputes are widely thought to be one of the primary causes of social unrest (Huang 2011, Huang 2012).²⁹ Especially in rural and suburban settings, evictees use large-scale sit-ins, road blocks, and demonstrations to resist, for instance.³⁰ In urban or semi-urban settings, the party-state is deploying constant vigilance and control measures to prevent protest gatherings; but evictee

²⁹ In 2013 an official suggested that pollution-related protest might have overtaken land-grab-related protest; there are no publicly available statistics to assess such comments (Hirschberg 2013). Hou Liqiang 2014 cites pollution, land takings, demolitions, and labour conflicts as primary causes of ‘mass incidents’.

³⁰ For a recent news report see Laura Zhou, ‘Protesters in Henan block railway line as anger flares over property dispute,’ *South China Morning Post*, 3 February 2015, <http://www.scmp.com/news/china/article/1700241/chinese-protesters-block-railway-line-row-over-property-dispute>.

rights defenders have on occasion successfully organized petitioners in tours to politically significant places such as Tian'anmen Square in Beijing. Making it there – showing up at a place from which the party-state particularly wishes to keep petitioners away – put pressure on local officials who would be blamed for causing such 'social instability, and might receive fines accordingly. This kind of conduct suggests a vindictive replication of the 'us vs. them' mentality, commented on earlier by Yu Jianrong, on the part of evictee protesters and petitioners (Yu Jianrong 2009), also borne out in conversations I have held with evictee protesters (e.g. #97 2010-1).

'The whole system is just too irrational. The courts can only decide against you. And the only way you can put pressure on the government officials is through petitioning [of this nature, i.e. demonstrations aimed at drawing attention to one's plight].' (#51 2011-1)³¹

The methods of resistance I have described above consist primarily in various forms of individual and collective expression³² and tend over time to lead to civic associations. While, evidently, the party-state is inclined to treat politically critical expression and independent civic association as unacceptable manifestations of subversiveness (hence associations are deliberately kept loose and informal), such activities are *prima facie* legitimate from a liberal perspective. As responses to dignity takings, they can restore to a person who has felt silenced and marginalized a sense of moral agency, of the capacity to say what they think and to connect to others (others who probably are in some important respect like-minded) as a matter of choice. Voluntary and purposive associations of this kind can reverse the experience of the 'study class' and the 'black prison,' where detainees were reduced to conditions of tutelage, and made to serve the ends of the party-state. They can reinstate the individual victims of a dignity violation in a social group that shows respect to them, respect they are entitled to but that has been denied to them. If this interpretation is correct, then expression and association are important because they restore a sense of dignity, an understanding of one's own worth as a human being and moral agent. While there is no reason to think that this sense is necessarily dependent on others' affirmation of it, a community of persons providing such affirmation, showing sympathy, is likely to be especially important to the marginalized and the humiliated.

It is also possible that moral vindication can be achieved through simple documentation of dignity takings as an indispensable first step in recording wrongs for the future, when a more substantive form of redress might conceivably become available. For example, an unknown Chinese citizen who in 2010 created a 'blood properties map' to record sites of violent takings reportedly commented, (Beijing News 2010, Chin 2010), perhaps unconsciously replicating the ubiquitous language of cost-benefit-analysis,

'If there ever is a day when we don't have violent demolition [the map] can be there to tell younger generations that there once was a time when things were developing quickly, and that some people paid a price in this process.' (Chin 2010)

Actions like these further illustrate the fact that while many important processes for redress are ideally the responsibility of the state under the rule of law, there are also state-independent mechanisms and processes that can be initiated independently in civil society in repressive political conditions. In these conditions, civil society actions aiming to restore a

³¹ The amount stated here has been altered to preserve anonymity of interview.

³² I think that the term 'expression' captures these activities better than 'communication' (cp. Atuahene 2014: Chapter 4) in the Chinese setting, because genuine communication remains so difficult.

sense of dignity to the victims of dignity takings are likely to serve the wider goal of political mobilization. The sense of empowerment and conciliation through civil society is greatest in those cases where evictee rights defense translates into some form of forward-looking, affirmative advocacy, as captured by the rights defender whose parents' unfortunate experience led her to take up this cause. She spoke of the need to promote what she called 'happy rights defense' (*kuai le wei quan*), for example (#51 2012-1); and she attempted – unsuccessfully – to stand as independent candidate in local People's Congress elections in her home city. Empowerment can also occur when evictee groups are successful in providing 'feedback', even outside the institutionalized judicial process, to the authorities, as the evictees induced by the lawyer to provide informal citizens' 'assessments' of judges in takings cases (mentioned above).

Resistance can also take violent forms, however. A wealth of reported cases and anecdotes and experiences communicated in fieldwork research indicates that experiences of violence on their part can lead to evictees themselves choosing violent means of resistance. Tang Fuzhen's and a few dozen other reported cases of suicide or self-harming resistance may reflect a tradition of suicide resistance in China. (Sing and Kleinmann 2000) There have also been cases of violent resistance on the part of villagers – most commonly in land-grab cases, where hundreds or thousands of villagers may turn out to 'defend' 'their' land, leading to violent clashes with police; but also in cases like that of Fan Mugen, cited above, and another evictee named Ding Hanzhong, who was convicted of murder and sentenced to death in circumstances strongly suggesting that he had acted in self-defense, according to his supporters (Case of Ding Hanzhong Concern Group 2015).

Violent resistance raises more complex legal and moral questions. Resistance to takings usually triggers some criminal or otherwise punitive process; and these processes tend to crystallize resistance further, inevitably focusing on the question whether violent resistance can be justified. The party-state's general answer to this question is, unsurprisingly, 'no,' even though China's criminal law contains provisions on self-defence that should in principle be available to those who resist violent eviction teams by using violence themselves. Only in one reported and widely cited case of a stabbing of a demolition team member did the judiciary accept a 'self-defense' argument on account of illegal 'forced demolition' by thuggish intruders who had threatened and attacked the defendant and his family, convicting the defendant but giving him a suspended sentence due to 'excessive self-defense.' (Boxun 2009) In other cases, courts have ignored defense teams' arguments about self-defense.

Thus, in the criminal case of Fan Mugen, lawyers, academics, family and friends of the accused and other evictees gathered in January 2014 for an informal seminar discussing the case and possible defense strategies, later reported in overseas media.³³ It was widely felt that the concrete circumstances of the case constituted justified self-defense, and that Fan Mugen therefore ought to be acquitted. Following a trial in February 2015 that appeared to be flawed in a number of ways, the court rejected these arguments. The police video footage provided at trial inexplicably left out parts that would have shown the attack on the defendant's family. Also, according to an interview with one of the defense lawyers, witnesses for the defense were not allowed to appear; along with members of the defendants' family, they were instead held in a police station to prevent them from attending the trial (Qiao Long 2015). Possibly anticipating such problems, hundreds of supporters had attempted unsuccessfully to express support at his trial outside the court building, which was guarded by – reportedly – some three hundred police. Some of these supporters were reportedly detained and beaten, as was one of Fan Mugen's sons (Qiao Long 2015); and at the end of the trial, one of the criminal defense lawyers was taken away and held in a police

³³ As mentioned earlier, I attended this meeting.

station and questioned for several hours. (Qiao Long 2015) Even two years after his conviction, supporters were reported to have gathered to express ‘support for Fan Mugen’s right of appropriate (unlimited) self-defense.’ (Yang Fan 2015).³⁴ While the criminal justice process in this case thus far suggests deep flaws and little hope of justice, it clearly served to bring supporters of Fan Mugen together in an apparently widening and ever-denser network of people willing to support resistance to takings.

Beyond the confines of the question of self-defense in this specific case, this raises the wider question of how, if ever, violent resistance to dignity takings can restore one’s sense of dignity and moral agency, and bring the sort of recognition of past wrongs that is the appropriate reaction to a dignity taking. In the context of a liberal political order that is reasonably functional, violent resistance would be limited very narrowly to situations of self-defense, and a sensible account of self-defense would be one that limited it to a reaction proportionate to the threat or violation that was ongoing. This limitation reflects the basic assessment that violence is not generally appropriate as a reaction even to violence unless a current attack extraordinarily justifies it.

In the circumstances of a legal-political order that systematically fails its people, by contrast, no actual reliance on public power is possible, especially when public power itself becomes the source of violations, as in the case of Fan Mugen and in the wider context discussed here. The vocabulary of warfare and being under siege, frequently used by evictee resisters, implicitly invokes this line of argument, as do evictees’ references to ‘lawlessness’ and ‘mafia-like’ government (He Yang 2010); and some comments by human rights defenders who have spent years working under the highly repressing conditions of the current system appear to provide limited support for violent resistance. (Pils 2014, Chapter 7) Yet, any argument drawing on the concept of dignity violations in the context of dignity takings must still be limited. If the foundations of dignity rest on a moral account of autonomy and requires reasoning along Kantian lines, it seems that dignity restoration will only, if at all, be possible where the resistance supposed to bring it about is morally justified. It seems doomed to fail in cases where resistance involves further violations (denials) of dignity as a moral status to which all moral agents – including of course perpetrators – are entitled.

Liberal theories that have explicitly supported a right of resistance, such as that of John Locke, have made it quite clear that the right of resistance is inherently limited. Drawing on the Lockean conception of social contract that inspired Atuahene’s account of dignity, a broken social contract can justify resistance to government power; yet from the perspective of Locke’s contractarian theory, this entails being restored to a pre-contractual position, but not a position without moral law. Those who justly resist are ‘absolved from any farther Obedience, and are left to the common Refuge, which God hath provided for all Men, against Force and Violence.’ (Locke 1689). From the perspective of a Kantian conception of dignity, similar constraints would have to apply. Whether Kant himself was at all prepared to accept any right of political resistance is controversial (Rauscher 2012); certainly, from a Kantian perspective, dignity as such does is not contingent on its recognition by the state. Contemporary philosophers who, like Kant, have drawn on the concept of dignity, but clearly affirmed a right of resistance, have associated dignity with fundamental, individual rights against the state, and articulated a very high threshold for justified resistance. Thus, Dworkin speaks of the abstract ‘right to an attitude,’ a ‘right to be treated *as* a human being whose dignity fundamentally matters’ (Dworkin 2010: 321) In Dworkin’s account, it is complete denial of that attitude that can at some point destroy political obligation altogether, and therefore justify not mere ‘disobedience’ but ‘revolution,’ in analogy with the easier case of

³⁴ As indicated in the referenced media report, one of Fan’s lawyers, Wang Yu, was by that time herself held in incommunicado detention, apparently in retaliation for her human rights advocacy.

an association that is itself ‘a force for bad,’ such as the mafia. (Dworkin 2010: 321) If the threshold for violent resistance is so high, dignity violations as such cannot justify violent resistance in all contexts in which the state fails to provide adequate redress, even if its failures are systemic and deeply injurious to individual citizens.

This analysis might find further support when considering the possible indignity of violent resistance. Resistance of the kind documented here can lead to a deepening of the divide between the communities of evictees who have been and see themselves as wronged, and the authorities and their collaborators in such takings. These widening divides reinforce an attitude of ‘us’ versus ‘them’ that gradually turns ‘them’ into enemies to be destroyed, not respected in any sense. Unfortunately, such a process cannot restore a sense of dignity understood on liberal terms of individual self-worth and moral autonomy, but only further jeopardize it.

TENTATIVE CONCLUSIONS

I have argued here that despite an in principle justifiable concern with advancing growth to benefit the nation, the system for takings in China can take on predatory forms and can, at least in some cases, lead to dignity takings.

Perhaps in some contrast with examples of countries where the government pursues a discriminatory (e.g. racist) policy in which dignity takings appear to be instrumental to this pre-established goal, the Chinese example is one of a system with a high degree of power concentration *leading to* social division and, in some cases, racialization. In the system as discussed here, relatively new politico-economic elites exploit and marginalize large sections of the population, whose second-class status is established through a variety of strategies. These include legal bifurcation, a social discourse denouncing the poor and powerless as ‘low quality’ people, and – ultimately and most comprehensively -- political disenfranchisement, the repression of speech, advocacy, and attempts at genuine political participation in China’s legal-political system.

This analysis suggests that many of the indignities of takings and resisting takings are related to wider institutional failures (such as a relatively weak judiciary). The system as it affects takings seen in this way is a mere symptom of a wider failure to treat its citizens as individuals with rights, rights whose nature is best understood in their interconnectedness and mutual dependency on the ability to challenge and limit public power.

As long as such institutional conditions are in place, and as Chinese society remains locked in a pre-transition moment, the Chinese examples of dignity takings do not easily lend themselves to an examination of what kind of restoration or reparation would be adequate: for many victims of Chinese dignity takings, there are at present no institutions they could turn to with full confidence that their grievances would be heard and addressed, and this fact adds to their wrongs. As various examples cited in this brief study have suggested, it is in acts of resistance to dignity takings that some of those affected can reassert their dignity, along with their rights; but (depending on how they choose to resist) it is also acts of resistance that may plunge them further into disaster.

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