



Institutional credibility and informal institutions: The case of extralegal land development in China

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ABSTRACT

The credibility of informality has become a fertile frontier in the study of institutions as is evidenced by the Credibility Thesis and its applications. Whereas the preceding contribution by [Liu and Zhang \(this special issue\)](#) examined whether, and if so, under what preconditions informal institutions could be formalized, the current article assesses how informal institutions establish their credibility over time. Focusing on competing informal institutions in a developing context, this article explores the mechanisms through which informal rules cumulate their credibility while challenging the formal ones. This article identifies two fundamental mechanisms that contribute to the increasing credibility of informal rules. First, political bargaining lead to ineffective enforcement of formal institutions and low risk of violation of formal rules; Second, institutional challengers' competition for informal practices ironically facilitates their unorganized coordination and resolves their problems of collective action. The interactions of these two fundamental mechanisms help institutional challengers increase the scale of their informal practice and enhance the credibility of informal rules. This article employs the extralegal land development in Shenzhen, China, as an extreme case. Nearly half of the permanent residents in Shenzhen are living in extralegal houses built on state-owned land by villagers whose rural land has been nationalized by the government. The findings can shed light on the credibility of informal rules in other fields.

1. Introduction

Theorization of informal institutions has become a fertile frontier for comparative politics. Informal institutions are defined as “socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels” ([Helmke & Levitsky, 2004, 727](#)). Scholars have identified various types of informal institutions such as personal networks ([Ledeneva, 2008; Wang, 2000](#)), clientelism ([Lauth, 2000; Walder, 1986](#)), corruption ([Böröcz, 2000; Darden, 2002](#)), clans ([Collins, 2002, 2003, 2004; Tsai, 2007; Xu & Yao, 2015](#)), adaptive informal institutions ([Tsai, 2006, 2016](#)), etc. Both formal and informal institutions can enable and constrain human behavior ([North, 1990; O'Donnell, 1996](#)). Informal institutions can also exert considerable influence on formal institutions. For example, [Helmke and Levitsky \(2004, 728–730; 2006, 14\)](#) identified complementary, accommodating, competing, or substitutive informal institutions according to their functional relationship with formal institutions. Similarly, [Li \(2019\)](#) highlights the importance of accommodating and antagonistic informal norms in managing contention. As such, a good institutional analysis needs to pay attention to both formal and informal institutions.

An underexplored issue is the credibility of informal institutions. [Ho \(2014, 14\)](#) develops his Credibility Thesis and calls for transcending institutional form, arguing that “institutional function presides over form; the former can be expressed by its credibility, that is, the perceived social support at a given time and space” because “what ultimately determines the performance of institutions is not their form in terms of formality, privatization, or security, but their spatially and temporally defined function” ([Ho, 2014, 13–14](#)). As a proxy to measure institutional function, institutional credibility is defined as “the collective expression of the functionality of institutions, or, more specifically, the reflection of actors' cumulative perceptions of endogenously emerged institutions as a common arrangement” ([Ho, 2014, 16](#)). A reasonable corollary of the Credibility Thesis is known as its First Prediction: “divergent forms perform identically, inasmuch as identical forms perform divergently” (see the introduction to this special issue). Put differently, institutional credibility not only applies to formal but also to informal institutions, both of which may equally well perform in social, economic, political or environmental terms. What remains largely unknown and unexplored is how informal institutions evolve into functional arrangements. Against this backdrop, this article addresses the following questions: How do informal institutions establish their

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credibility? How do newly developed informal rules gain popular support? More specifically, how do competing informal institutions cumulate their credibility while challenging the formal ones?

This article focuses on the credibility of *competing* informal institutions. The reasoning for this is that the dynamics of emergence, spread, change, and formalization may vary with different types of informal institutions. The above-mentioned complementary, accommodating, competing, and substitutive informal institutions may vary in the degree of conflict with formal ones, the way the informal come into existence, communication mechanisms and legitimacy of informal practices, and the likelihood of informal institutions being formalized. For example, when villager cadres in China have a moral obligation generated by their membership in local temple associations, they are more likely to provide public goods for villagers (Tsai, 2007). The informal norms of social obligation are types of complementary informal rules that have had local governments' support. On the contrary, competing informal institutions coexist with ineffective formal rules and produce divergent outcomes that are relative to formal ones. As such, "these informal institutions structure incentives in ways that are incompatible with the formal rules: to follow one rule, actors must violate another" (Helmke & Levitsky, 2004, 729). Competing informal institutions have to face the suppression from the enforcers of formal rules. For this reason, we need to focus on one particular type of informal institutions and specify the mechanisms that determine its dynamics.

Based on the case study of extralegal land development in China, this article finds that the rising credibility of competing informal institutions can be explained by two interrelated fundamental mechanisms. The first one is the ineffective enforcement of formal rules that is the result of political bargaining among related actors. As the usual defender of formal institutions, the government is not a unitary actor and features horizontal and hierarchical fragmentation with different parts having distinct values and interests. Even a single government agency sometimes has to keep a balance between various (and probably conflicting) considerations. Both government fragmentation and multiple motivations can generate policy inconsistencies, create institutional loopholes, and weaken the government's enforcement. The weak enforcement of formal rules can be exacerbated by the strong collective actions of practitioners of informal rules which enhance the bargaining power of institutional challengers.

The second fundamental mechanism consists of the successful collective actions of practitioners of informal rules which is, ironically, facilitated by competition among these practitioners. If violators of non-credible formal institutions face a small risk of being punished, as will be demonstrated in the case study, they will compete to develop informal rules. This competition increases the credibility of informal practices and hence facilitates the spread of informal institutions. In competition, even if there is no strong and centralized coordinator, violators can achieve a critical mass of supporters that will force those advocating and defending formal institutions to make concessions and formalize certain informal rules. As a result, this coordination-by-competition mechanism addresses the problem of collective action and the spread of informal rules.

In brief, ineffective enforcement of formal rules (the first mechanism) provides opportunities for the emergence of informal rules and encourages a race for informal practices; meanwhile, competition for violation of formal rules (the second mechanism) helps to address the problem of collective actions and scale up informal practices.

This article takes the extralegal land development in the city of Shenzhen, China, as a case. Shenzhen was the first Special Economic Zone (SEZ) of China and has developed from a small fishing village into one of China's most developed cities. The development of Shenzhen is a history of urban expansion and land conversion. The competition for land between the government and peasants greatly intensified and culminated in two radical rounds of nationalization of all rural land in 1992 and 2004, respectively. As will be shown in the following contribution by Sun and Ho (this special issue), peasants, individually and

subsequently collectively, rushed to build extralegal houses or other facilities on the land under their de facto control in defense of their land rights. As a result, half of Shenzhen's land use is informal. As of the end of 2015, there were as many as 7.3 million of the 11.4 million permanent residents in Shenzhen living in extralegal buildings built by indigenous villagers,¹ and these account for 43% of the gross floor area in Shenzhen.² How was this profound scale of informal construction and occupation possible? How did this extralegal land development emerge, spread, and persist, and how did the central and local governments deal with the challenge of such a large-scale extralegal land development? The case study answers these questions.

This article critically relies on archival sources and in-depth interviews. Key written resources at the national and local levels that were studied include laws and regulations; government policy documents; state investigation reports; media reports and commentaries; the China Land and Resources Yearbooks; the Gazetteers on Land Resources (*guotu ziyuan zhi*) that were compiled by the bureau of land and resources; documents on land use issued by village committees and rural collective economic organizations³; and certificates on land ownership and use rights. Furthermore, three rounds of fieldwork were conducted in Shenzhen in the summers of 2015 and 2016 and in winter 2018. The author conducted 51 structured, semi-structured, and informal interviews with government officials in charge of land use, ordinary villagers, village cadres, the leaders and staffs of rural collective economic organizations, experts in universities and think tanks, journalists, and developers who conduct business with villagers and the government. The author purposely selected interviewees who were mostly based in personal networks. The author first contacted some friends in the Shenzhen Municipal Government and official think tank who introduced additional relevant officials and experts to the author.⁴

The remaining part of this article is laid out as follows. The second section discusses existing literature on institutional credibility and informal institutions and elaborates on this article's analytical framework. Then, the third section introduces a case study on Shenzhen, China. The final section concludes this article with a summary and discussion.

2. Credibility and informality: towards an analytical framework

2.1. The myth of institutional forms and the credibility thesis

In the study of institutions, the decoupling of formality and functionality is necessary and might potentially yield critical new insights. According to Chang (2007, 19), the "inability to clearly distinguish between the forms and functions of institutions" has been a significant problem of the mainstream literature on institutions and development.

¹ For the statistics of permanent residents, see Shenzhen Municipal Bureau of Statistics (2016), "Shenzhen 2015nian quanguo 1% renkou chouyang diaocha zhuyao shuju gongbao (Communique on the main data on sampling 1% of the total population in Shenzhen in 2015)", *Shenzhen tongji* (Shenzhen Statistics), available at http://www.szjt.gov.cn/xxgk/tjsj/pcgb/201606/t20160614_3697000.htm, accessed on March 11, 2018.

² For the residents living in extralegal houses and the land area they occupy, see Xia, Wenge (2016), "Shenzhen 730 wanren zuzhu zai weijian zhong, weifa jianzhu mianji zhan quanshi jianzhu mianji 43%" (There are 7300 thousand residents living in illegal houses, the area of which accounts for 43% of the total construction area), *Xinhua Wang* (Xinhua Net), available at http://news.xinhuanet.com/city/2016-01/18/c_128638703.htm, accessed on March 11, 2018.

³ In Mao's era, rural collective economic organizations included people's communes, brigade, and production teams; in the reform era, the communal system was abolished, and these organizations have been transformed into various types of Rural Cooperative Economic Organizations and Rural Shareholding Cooperatives.

⁴ Those officials who were first contacted came from different departments and held different views on land development. This diversity can mitigate possible selection bias.

In contrast to previous comparative and macro-institutional research in varieties of capitalism where function follows form, Dixon (2012, 580) instead advocates for a function-before-form approach and argues that “institutional form is not necessarily determinate of institutional function as the latter is often variable and context dependent”. Against this intellectual background, Agrawal et al. (2014, 277) remind us that we must “highlight the importance of focusing on how interventions function in specific contexts” because “interpreting interventions or their effects from their form alone” is difficult.

Peter Ho (2014, 2016, 2017) connects institutional function with institutional credibility and develops the Credibility Thesis. According to Ho (2014, 16), institutional credibility is “a measure of how actors’ perceive institutions as a jointly shared rule”. The “credibility thesis” has several dimensions: first, based on the degree of credibility, institutions can be conceptualized as a continuum that consists of fully credible, partially credible, non-credible, or even empty institutions; second, the neoclassical equilibrium of institutions is never reached as institutional structures are “in a continuous state of flux, with various grades of credibility and levels of conflict”; third, institutional credibility is always secured from an endogenous game involving all actors; and, finally, credibility does not refer to individual acceptance of a rule, rather, it “relates to the aggregate perceptions of institutions as a common arrangement” (ibid., 16).

However, how can the so-called institutional credibility be measured? In addition to the use of transaction costs (Fan, Yang, Liu, & Wang, 2019), a methodology for the study on institutional function and credibility is provided by Ho (2016, 1127–1134): (1) to open the black box of institutions and interpret their functions, one must conduct a “multi-angulation of information” including macro or micro-level quantitative/qualitative data at different places and over time; (2) institutional credibility can be used as a proxy to measure institutional functions (from fully credible to non-credible institutions) because “institutions that exist and persist fulfill a function, and are credible” (Ho, 2016, 1126); (3) institutional credibility can be measured by two indicators. One is the source, frequency, outcome, timing, intensity, length, and nature of conflicts among stakeholders. Another is the perceptions of actors’ property rights which can be assessed by the FAT institutional framework, a comparison between the Formal (What property rights should one enjoy?), the Actual (What property rights does one have?), and the Targeted institutions (What property rights would one desire?).

The Credibility Thesis’ conflictual approach to institutional credibility is echoed by other scholars. For example, Grabel (1997, 2000) believed that the neoclassical criterion of credibility is, theoretically, anti-pluralistic and politically anti-democratic, and she suggested two alternative criteria: the principle of democratic credibility and the principle of fallibility of which the former assesses the unequal distribution of veto authority while the latter cares about minimizing harm to the least advantaged. The discussion of institutional credibility begs a question: Whose function or whose credibility are we talking about? Both Ho and Grabel hold a power-distributional approach to institutional analysis and assume that any institution has a distributive outcome that generates winners and losers, albeit empirical reality will certainly feature a given degree of overlap, variation, and hybridization between groups.

The power-distributional view of institutional credibility is especially relevant in our discussion of competing informal institutions. Needless to say, any formal institution has defenders and challengers and, very simply put, the “winners” are often those defending formal institutions whereas the “losers” can frequently be seen challenging formal institutions and developing competing informal institutions. “Winners” and “losers” may have opposite views of the credibility of the same institution.

Following these pioneer studies, this article further explores the mechanisms through which competing informal institutions establish their credibility among institutional challengers. Helmke and Levitsky

(2004, 734) put it well, “We need to theorize more rigorously about the emergence of informal institutions and particularly about the mechanisms through which informal rules are created, communicated, and learned.”

2.2. The dynamics of informal institutions

The establishment of the credibility of informality involves the process of emergence, spread, and even somewhat formalization of informal institutions. How do informal institutions emerge, spread, change, and become formalized? Existing studies have produced various insights into these issues along various dimensions. First, how informal institutions are created is the starting point. On this issue, a functionalist approach (e.g., rational choice analysis) holds that informal institutions emerge because they perform purported functions such as efficient solutions to the problems of information or collective actions (e.g., Shepsle & Weingast, 1981; Weingast, 1979).

Moving beyond the static and functionalist accounts, other explanations address the relationship between informal and formal institutions. For example, Helmke and Levitsky (2004, 730–31) argue that informal rules may be created when formal institutions are incomplete and cannot cover certain contingencies. Similarly, Tsai (2006, 117) finds that local actors devise informal coping strategies in order to evade the restrictions of formal institutions. Processes of informal institutional emergence take different forms and involve conflict and coercion. As Helmke and Levitsky (2004, 731) summarized, some informal institutions are products of top-down elite design and imposition while others emerge out of a decentralized process; some emerge in terms of a focal point (Schelling, 1960), repeated mechanism (Calvert, 1995; Schotter, 1981; Sugden, 2005), or bargaining (Knight, 1992); others may be unintended products of historical contingencies (Katzenstein, 1996).

Second, how informal rules are communicated and spread is key to their increasing credibility. With regards to the spread of informal institutions, many researchers agree that “learning by example” is a crucial process (Langston, 2003, 14–16; Mershon, 1994, 67–68), and social networks and political organizations can act as a transmission belt of informal rules (Colignon & Usui, 2003; Darden, 2002; Lijphart, 1975; Della Porta & Vannucci, 1999, 93–124). Furthermore, informal institutional change is another important issue. In their agenda-setting review article, Helmke and Levitsky (2004) listed possible sources of this change including changes in the design and effectiveness of formal institutions, societal values, distribution of power and resources, and beliefs or mechanisms for coordination.

Lastly, even credible informal institutions could be fragile if not formalized. Why and how are informal institutions formalized or codified? The widespread practice of informal institutions, especially those that are competitive or substitutive, may challenge the authority of formal rules. There are always political bargains in the formation of property rights (Rithmire, 2015). As defenders of formal institutions, “political leadership then faces the questions of whether to look the other way themselves, re-assert the authority of formal authorities, or reform them... Yet, when adaptive informal institutions yield desired outcomes such as economic growth or political stability, they provide reform-oriented policy elites with practical evidence that can be marshaled to promote formalization of such practices” (Tsai, 2016, 282). However, to what extent can informal practices reach the critical point that pushes political leadership to formalize them? The “tipping model” suggests that a sufficiently large enough number of actors of informal practices is necessary for considering a new and better formal alternative (Schelling, 1960, 1978; Helmke & Levitsky, 2004, 732).

2.3. Explaining credibility of informal rules

Despite the critical insights on credibility and informality discussed above, several gaps are still apparent in existing studies. First, few

studies have particularly examined the credibility of competing informal institutions, the most incompatible type relative to the formal institution. Second, in addition to learning, social networks and political organizations, other mechanisms for collective actions remain underexplored. Third, the power structure and political bargaining between institutional defenders and challengers have been understudied.

This article attempts to fill these gaps and builds a new analytical framework to explain the rise of credibility of competing informal institutions. First of all, following the power-distributional perspective on institutions (Knight, 1992; Mahoney & Thelen, 2010; Moe, 2005; Tang, 2010), this article considers institutional change as an ongoing process of the power struggle between challengers and defenders. By definition, competing institutions involve an intense struggle for rights and benefits between two parties. As such, the conflictual approach to institutions is particularly useful for the discussion of institutional credibility. When the number of practitioners of informal rules reaches a critical point, as posited in Helmke and Levitsky's (2004) tipping model, defenders or enforcers of formal institutions may face significant pressure and threats from challengers, forcing them to make concessions and formalize certain informal rules.

Second, this article uses political bargaining between challengers and defenders (as well as among defenders themselves because of divisions within the state) to explain why the enforcement of formal institutions is ineffective which subsequently creates opportunities for the emergence and spread of informal rules.

Third, collective action is crucial for the spread and increasing credibility of informal practices. Challengers of formal institutions resolve their problem of collective actions with competition. This paper contends that low-risk violation of formal institutions due to ineffective enforcement will lead to uncoordinated collective action in which challengers compete to develop informal rules. Challengers gradually learn of the incredibility of formal institutions and subsequently spread a commonly shared sense of injustice to others. Those who lag behind in the competition ironically become "losers". As a more general principle, it can be ascertained that rules garner more credibility when more practitioners of informal rules exist. When there is a critical mass of practitioners of informal rules, institutional defenders may formalize certain informal rules. This formalization further consolidates the credibility of informal rules.

In the next section, the case of extralegal land development and the rising credibility of informal land use in Shenzhen, China, illustrates this framework.

3. Competing for land development: the case of Shenzhen

This section first introduces the formal institutional background of land tenure in China and discusses why and how the formal land tenure institution gradually lost its credibility among peasants in Shenzhen. The competition for land development between the municipal government and the peasants in Shenzhen is highlighted.

3.1. Institutional background

The fundamental institutional arrangements are codified in the Land Administration Law (LAL) that was adopted in 1986 and amended for the first time in 1988, revised substantially in 1998, and amended a second time in 2004.⁵ The LAL and other related laws, regulations, and policies constitute a complex legal system of land tenure. Basically, the

land tenure regime (LTR) in China is what could be termed as a typical "predatory economic institution" for peasants. Formally speaking, the land is divided into state land in urban areas and collective land in rural areas. The State Council has nominal ownership rights over all urban land while local governments enjoy *de facto* ownership as the representatives of the central state.⁶ According to law, urban units and individuals needing land for construction purposes must apply for use rights of state-owned land; only after being expropriated by the state does collective land become state-owned land. This stipulation empowers local governments to monopolize power in two aspects: i) as the sole legal supplier in the urban primary land market; and ii) as the sole legal broker that can transform collective land to state-owned land. Under this dual land system, on the one hand, peasants are more easily prone to predatory land expropriation; on the other hand, they are prohibited from entering their collective land into the highly profitable land market in urban China.

The land tenure system provides local governments with a major source of revenue. Local governments, the sole legal broker between the urban and rural land markets, expropriate peasants' land at a low "compensation price" and sell the use rights of converted land at a substantially higher "conveyance price" in the urban market. Land conveyance fees are divided between local governments and the central government with local governments receiving as much as 70% (Lin, 2009, 101). Based on this extractive land institution, local governments have developed a land revenue regime (Zhan, 2015). Land revenue, including conveyance fees and other taxes and fees related to land use, constitutes the majority of local government revenue.

3.2. Rising land shortage and struggle for land tenure

As one of the first four SEZs, Shenzhen represents China's reform and opening-up policies in a miniature model. Shenzhen has been proud of its "Shenzhen Speed" (*Shenzhen sudu*): From 1979 to 2011, the built-up area increased from three square kilometers to 863 km²; the urban population increased from 30 thousand to 15 million; and the local GDP increased from 196 million yuan to 1.1 trillion yuan (Xu & Li, 2016, 11). Currently, Shenzhen has grown into one of China's major metropolises (the other three being Beijing, Shanghai, and Guangzhou). This rapid development has significantly raised the value of land and intensified the struggle over land tenure between the municipal government and peasants.

The spectacular growth in Shenzhen was accompanied by a serious shortage of urban construction land. As of 2016, the total land area of Shenzhen Municipality is 1991 km² for which agricultural land accounts for 916 km², and the occupied construction land comprises 934 km² (47% of the total land area) (Xu et al., 2016, 11). Land development has practically reached the limits of usable land within the city. According to the overall plan for land utilization, by 2020, the newly-added land for construction is only 42 km². Markedly, the annual land supply has decreased since 2008 while the planned supply had not even been fully delivered since 2009 (Xu et al., 2016, 11). The ratio of the built-up urban area to the total land area in Shenzhen is 47% while this number is 21% in Hong Kong, 8% in Beijing, 13.5% in Shanghai, and 12.5% in Guangzhou. From Table 1, it can be seen that the shortages of urban construction land began to emerge early in Shenzhen's development.

An important reason for the shortage of construction land is that the small area set aside for the special economic zone of Shenzhen was surrounded by large areas of rural land that could not be used for urban construction until it could be formally expropriated. In this sense, the history of urban expansion in Shenzhen is also a history of rural-to-urban land conversion. For each plot of newly-added urban

⁵ On December 23, 2018, China's legislature reviewed a draft amendment submitted by the State Council. The draft amendment suggests that China will restrict the scope and regulate the process of land expropriation in rural areas and give more compensation to peasants involved in land grabs. It also suggests that more rural construction land can enter the urban market.

⁶ Some useful background information on China's governance is, for instance, provided in (Shue, 2018).

Table 1
Statistics on the Used and Unused Land in Shenzhen, 1995–2008.

Year	Area of urban construction land		Remaining useable land	
	Area (sq.km)	Ratio to the total land	Area (sq.km)	Ratio to the total land
1995	562.65	28.82%	155.95	7.98%
2000	620.10	31.74%	121.94	6.34%
2001	597.88	29.60%	114.71	5.68%
2003	814.32	41.70%	114.10	5.84%
2004	839.04	42.97%	113.91	5.83%
2006	891.83	45.67%	96.86	4.96%
2007	919.97	47.11%	92.97	4.76%
2008	929.67	47.7%	96.46	4.69%

Note: the total land of Shenzhen changed during this period.

Source: (Zhong & Huang, 2013, 26).

construction land, the Shenzhen Municipal Government had to resort to expropriation. To this end, the Shenzhen Municipal Government first seized peasants' rural land within the SEZ and later turned to the adjoining rural areas.

Over time, however, the municipal government grew impatient and adopted radical measures to nationalize all rural land within its jurisdiction from 1992 to 2004. During two rounds of rapid urbanization and nationalization, all villagers were converted into urban citizens making Shenzhen the first municipality in the nation to nominally have no countryside or peasants.

During the first round of land nationalization in 1992, peasants were at a significant disadvantage. Land in the SEZ is extremely scarce, and the value appreciated sharply after being expropriated. According to statistics, as early as 1989, the total land expropriated in this year amounted to 17,339.14 mu (1 mu is approximately equivalent to 1/15 ha) of which the total compensation fee was 67.266 million yuan (1 dollar was approximately equivalent to 3.73 yuan in 1989), and the average compensation per mu was 7123.5 yuan (Chinese Communist Party Shenzhen Municipal Committee, 1990, 198–199). Markedly, the government conveyed the expropriated land at a significantly higher price (namely, 66,604.22 yuan/mu) or eight times the amount of the compensation fee that was paid to the peasants. In addition to the loss of the majority of their land, peasants also lost certain benefits of the rural hukou. Interestingly, it was reported that 95% of peasants in the SEZ chose to retain their rural hukou rather than take the urban hukou offered by the municipal government (Zhong & Huang, 2013, 46). This may seem strange to those unfamiliar with the hukou system, however, possessing rural hukou had several advantages: peasants are allowed to have two children; they can receive 100 square meters of rural housing land (in Chinese: *zhaijidi*) upon retirement; and can receive dividends from village enterprises (Wang & Mo, 1999, 384).

For peasants, the second round of land nationalization was very extractive. In hindsight, the compensation for villagers during the 2004 land nationalization of Bao'an and Longgang was astonishingly low.⁷ First, of the total of 956 km² of rural land, the compensation package only covered 265 km² of cultivated land whereas 360 km² of hilly land that was not formally labeled as rural construction land (i.e., land set aside for housing, public use, or village and township enterprises) was taken by the government with no remuneration (Shenzhen Municipal Government, 2004). The remaining “built-up” areas on which peasants had informally built houses was considered as being characterized with “historical issues” (*lishi yiliu wenti*) so that peasants did not receive any compensation, albeit retaining the right to use the land which was

already occupied. Second, this time, the government did not reserve any land for villagers' sustainable development even though they no longer had land to farm and had no qualified skills to find jobs in the market. Third, the compensation fee did not include a resettlement allowance because the government deemed that no villager was physically relocated. Fourth, the quotas for the construction land for villagers was exactly the same as those set in 1993 while the maximum gross floor area for each household was fixed at 480 square meters (Shenzhen Municipal Government, 2004).

Regarding social security, the government allocated 3–5% of the Land Fund of Bao'an and Longgang to supplement the collective social security fund. The newly-established collective shareholding corporations, as the successors to the original “collective economic organizations” (*yuan jiti jingji zuzhi jishou danwei*), would have to bear most of the social security burden for the (original) villagers. However, the amount that the collective shareholding corporations received from the compensation fee was insufficient. For example, in Bao'an, the collective shareholding corporations received 2.2 billion yuan as the compensation for 78 km² of expropriated land while the number of shareholders (i.e., the original villagers) exceeded as many as 74,000. According to the criteria of social security in Shenzhen at that time, these compensation fees were only sufficient for several years (Zhong & Huang, 2013, 57–58).

From what has been introduced above, we may pinpoint three conditions for the decreasing institutional credibility of the formal LTR: disregarding peasants' social security and access to the profitable urban market, imposition of the predatory LTR and radical nationalization of rural land, and insufficient compensation for expropriated assets that was enabled by a significant power divergence between the local government and peasants.

3.3. Decreasing credibility of the formal land regime

Over time, the above-described, predatory formal land regime has become decreasingly credible for the rural populace. One indicator of the decreasing credibility is the rise in land-related conflicts. The loss of farmland and the discontent of peasants affected by it has attracted intense scholarly attention (e.g., Cai, 2003; Ho, 2005; Ho & Lin, 2004). Land expropriation has been one of the primary factors responsible for rural conflicts in China in the past several decades (Cai, 2010; Chen, 2012; O'Brien & Li, 2006). According to a publication issued by the Chinese Academy of Social Sciences, nearly half of the thousands of annual mass protests were triggered by land grabs (Lu, Li, & Chen, 2012, 13–14). Ong (2015) built a social unrest dataset containing a total of 2528 cases from 2003 to 2012 in which she found that Chinese land-related grievances and conflicts accounted for nearly 40% of all of those cases. If we include individual petitioning into the statistics, the scale would be much larger.

As a typical case and a pioneer in the urban expansion, Shenzhen features a similar or even worse situation in terms of land-related conflicts. In 2015, many years after the last round of nationalization, there were still 32,789 petition cases regarding land use, and land-related collective petitioning (i.e., more than five petitioners show up) accounted for more than 20% of collective actions.⁸

Deeply embedded in the market economy, villagers gradually came to realize the significant gap between the compensation they received from the government and the increased value of their land in the urban market after expropriation.⁹ Many villagers have close connections with relatives in Hong Kong while many investors from Hong Kong have been conducting business in Shenzhen and are an important

⁷ The original SEZ had just four districts (Nanshan, Futian, Luohu, and Yantian); Starting on July 1, 2010, the Bao'an and Longgang districts were officially incorporated into the SEZ; On January 1, 2018, China's State Council declared to abolish the border line between the original SEZ and Bao'an and Longgang.

⁸ Interview, researcher at Shenzhen Academy of Social Sciences, Shenzhen, Feb. 11, 2018.

⁹ Interview, director, Shenzhen Urban Planning & Land Resource Research Center, Shenzhen, July 29, 2016.

source of novel ideas of the market to their relatives in Shenzhen. In the early 1980s, “villagers were happy to be expropriated because they can easily earn ten thousand yuan, which was a nice sum of money then...as soon as they gradually realized the market value of their land, they began to build illegal houses”.¹⁰ According to a grassroots cadre, for those villagers who have built illegal houses on unconfirmed land:

“Now they do not want any house certificates that confirm their rights; they just need their own land. The reason is simple, these certificates just confirm their rights to houses whereas the state still owns the land and use rights have a limited term and may be revoked by the state someday. If they own their collective land, they can preserve it forever”.¹¹

The decreasing credibility of the formal land regime resulted in the emergence of extralegal land development in terms of illegal housing. Informal constructions have grown to become the most marked feature of Shenzhen's urban development and, therefore, are separately discussed in the following section.

4. Extralegal land development in Shenzhen

This section traces the emergence and spread of extralegal land development by peasants and examines how the Shenzhen Municipal Government dealt with the large-scale informal rules in land use. In the remainder of this paper, it will be ascertained that peasants in Shenzhen challenged the government's extractive land tenure regime with a so-called “extra-legal land development” (*hefawai yongdi*). To better appreciate the dynamics of Shenzhen's massive extra-legal urban development, we first need to explore its origins in the years directly after China's first SEZ was established in May 1980.

4.1. The origins of extralegal land development and urban villages

Shortly after the SEZ was established, the Shenzhen Municipal Government, in a groundbreaking move, reserved some land for villagers as a part of the compensation package for land expropriation; it was the first in China to do so. In September 1982, the municipal government proclaimed its policy on reserved land. The government planned to resettle villagers in new villages near their original villages. Under the new policy, each household was entitled to a maximum of 150 square meters of land to use while the base area of the new house ought not to exceed 80 square meters. In that space, each villager was also eligible for 15 square meters of industrial land for the development of collective enterprises (Shenzhen Municipal Government, 1982). Interestingly, the government did not immediately take the land of original villages because it lacked enough money to pay the compensation. Thus, villagers were still able to use the land in their original villages until it was expropriated and compensated for by the government. This led to the coexistence of new “urban villages” together with the old ones and generated an opportunity for villagers to occupy and use their original land (Zeng & Liu, 2009, 155). Villagers began to challenge the government-set limits to land use in their new villages beginning in the mid-1980s. At the time, the demand for housing increased rapidly because of a large-scale influx of businessmen and migrant peasants into Shenzhen.¹² Indigenous villagers did not want to miss this lucrative opportunity and consequently began to enlarge or add on floors to their houses in the new villages and rented additional rooms to non-locals.

¹⁰ Interview, researcher at Shenzhen Academy of Social Sciences, Shenzhen, July 23, 2016.

¹¹ Interview, staff of the street law enforcement team in Nanshan District, Shenzhen, July 23, 2016.

¹² Some research suggest that formal property rights may lead to less migration (Zheng, Gu, & Zhu, 2019), yet, this research ascertains that the relation is endogenous and significantly more complicated than determined by a straightforward cause and effect.

Renting became a major source of income for many locals for years on end.¹³

In 1986, the government stepped up restrictions on land use and stipulated the scope of construction in the new urban villages according to the planning requirements of the time (Shenzhen Municipal Government, 1986). Any unapproved construction beyond these newly drawn “red lines” was considered illegal. In addition, according to the new regulations, the maximum size of gross floor area for each villager should not exceed 40 square meters while housing levels should not exceed three stories.¹⁴

These restrictive regulations did not stop villagers from adding on additional floors to their houses, enlarging the base area of their house, and narrowing the space between buildings. Today, this has led to the remarkable phenomenon of what is locally called “kissing buildings” (*jiewen lou*): structures built so close to each other that they appear to be “kissing” each other.

In 1988, the Municipal government unilaterally claimed that all rural residential land within the red lines in the new urban villages was state-owned, and villagers only enjoyed the land use right (Shenzhen Municipal Government, 1988). In 1989, the Shenzhen municipal authority declared its ambitions and determination in land expropriation. The Municipal Bureau of Land Management was in charge of it and was expected to expropriate *all rural land* in the SEZ *within a short period* (Shenzhen Municipal Government, 1989, Article 1).

The government policy generated panic in the villages and led to a high tide of house building by villagers in the SEZ. It was said that villagers literally wanted to “plant houses to protect their land” (*zhongfang baodi*). Within the Chinese legal system, land ownership is separated from housing ownership (*fangdi fenli*) and, although Chinese citizens and peasants have full ownership of their houses, they only enjoy use rights to state-owned land (in the cities) or collective land (in the countryside). From this follows that, if the local government aims to take the land, then the property built on the land must be compensated; the more properties, the more compensation that must be paid.

By 1992, three consecutive waves of house building had occurred in Shenzhen (Xu et al., 2016, 35) that were all driven by institutional interstices and economic interests.

The increasing competition for land between the government and peasants finally reached a high climax in 1992 when the former proceeded to nationalize all rural land in the SEZ, and indigenous villagers sped up their extralegal house building.

4.2. The high tide of extralegal land development

The Shenzhen authorities currently employ the term “historical illegal buildings” to refer to the extralegal housing (Standing Committee of Shenzhen Municipal People's Congress, 2009).¹⁵ Generally speaking, extralegal housing can be categorized into two types. The first are those that villagers built on nationalized collective land which is owned by the state as represented by the municipality yet has remained under the de facto control of villagers (i.e., the urban village); and the second is dwellings built by villagers on land for which they have legal rights to use, i.e., rural housing land (or *zhaijidi*) and reserved land for villagers, but misused by expanding the size of the dwelling to exceed government-determined limits.

Fig. 1 presents the scale and change of “historical illegal buildings”

¹³ Interview, Professor, Shenzhen University, Shenzhen, July 22, 2016.

¹⁴ Moreover, the families with no more than three members should have no more than 150 square meters of gross floor area, and families with more than three members should not have more than 240 square meters of gross floor area. The base area introduced in 1982 was defined as the projected area, and the maximum was still 80 square meters. Ibid.

¹⁵ According to this document, “historical illegal buildings” are those built before June 2, 2009, and those built after then are called new illegal buildings.

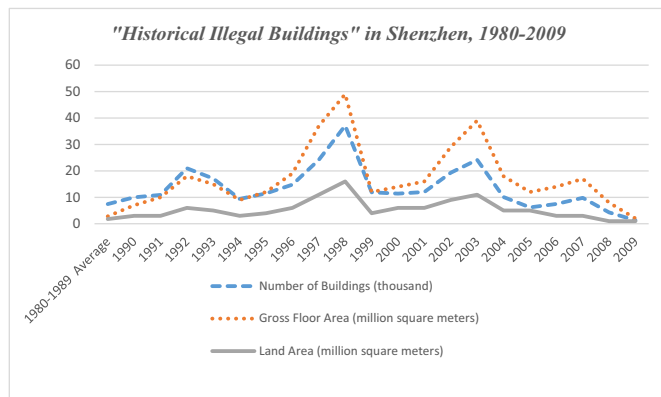


Fig. 1. Statistics on “Historical Illegal Buildings” in Shenzhen, 1980–2009

Source: Drawn by the author on the basis of (Zhong & Huang, 2013, 31).

Note: Shenzhen Municipal Office of the Small Leading Group in Charge of Investigating and Handling Illegal Buildings issued a “Statistical Report on the Registered Historical Illegal Buildings Left over from the Process of Rural Urbanization in Shenzhen” in July 2010.

from 1980 to 2009. The statistics are based on an official report on “historical illegal buildings” that was conducted in 2010. This report was compiled according to reported cases and was the first systematic survey on the phenomenon occurring in Shenzhen.

4.3. Political bargaining and ineffective government suppression

From what has been introduced above, we can see that the extra-legal land development in Shenzhen has become very popular among villagers and has obtained a high level of institutional credibility. This section and the next use two mechanisms to explain how this informal land tenure established its credibility. The first mechanism is that political bargaining within the state and between the state and villagers can explain the ineffective enforcement of the formal land tenure regime that provided opportunities for the emergence and spread of informal rules. Three types of political bargaining can be identified in the case of Shenzhen including state-internal horizontal bargaining, state-internal hierarchical bargaining, and government-villager bargaining.

The first two types of political bargaining occur within the government. The Chinese political system has been characterized by “fragmented authoritarianism” with horizontal and hierarchical divisions within the state (Lieberthal & Oksenberg, 1988; Mertha, 2009; Oksenberg, 2001). Policy making and implementation often hinge on negotiations and bargaining between various departments or between different levels of government. From 1980 to 2013, the municipal government promulgated as many as 77 policy documents, regulations, or rules regarding extralegal land development (Luo, 2014, 61–62). However, this intra-state bargaining has been an obstacle to state capacity as evidenced by the failed suppression of extralegal land development in Shenzhen.

The government crackdown movement involved many departments. The municipal government's strategy in dealing with extra-legal construction was dubbed the policy of Investigating and Handling Illegal Buildings (hereafter: IHIB, *chachu weifa jianzhu*). The regular procedures of the IHIB consist of searching for suspect extralegal buildings, investigating their legality, and deciding how they should be handled. Starting in the 1990s, the shortage of land became a more serious problem, and the government adopted increasingly repressive measures. The initial suppression featured fragmented control. It was not until 2004 that the crackdown had a united leadership. In 2004, Shenzhen established a small leading group for the IHIB and re-development of urban villages. The small leading group was the city's most authoritative entity in this field with the mayor at its head, other deputy mayors as deputy heads, and the heads of relevant municipal

departments and local governments as its members.

In 2009, the governing system for extra-legal buildings was re-structured again. This time, the government built a more integrated and powerful system for the IHIB with the municipal departments being responsible for macro management and the local governments in charge of inspection, investigation, and enforcement. In addition, a more professionalized enforcement system was established and divided into a municipal Supervision Division (*jiancha zhidui*), a district-level Supervision Brigade (*jiancha dadui*), and a street-level Supervision Squadron (*jiancha zhongdui*).

The government allocated a considerable number of staff to undertake the work of the IHIB. Together, these three-level agencies recruited over 1000 officers and staff members.¹⁶ According to a senior officer of Shenzhen Municipal Committee of Urban Planning and Land Resources (Zhan, 2014, 30–31):

“There are 80 municipal civil servants in addition to more than 100 social assistants employed by the government; there are 20–30 district-level staffs in each district, and the total number in eight districts is more than 200; in each street-level law enforcement team, 80% of their staff engage in IHIB, and the total number in Shenzhen municipality must be several thousand; yet we still fail to curb the illegal housing”.

In October 2015, the municipal authorities issued the so-called “1 + 2” policy documents to strengthen the work of the IHIB.¹⁷ According to these documents, local major leaders have to be temporarily relieved of their posts for self-examination or are forced to resign if “monthly newly-added illegal buildings” exceed a limit in their jurisdictions.

Yet, the government suppression has been restrained by government-internal bargaining. For one, the dominating force pushing the crackdowns changed over time. Authorities of urban planning, land resources, and city management once dominated the crackdown and, consequently, leaders and staff had no long-term plans, stable expectations, or strong motivation.¹⁸ Second, the staff of the IHIB came from 14 departments and retained their affiliations with their original departments. Since the offices of the IHIB at the municipal, district, and street levels were temporary agencies, these staff had no reason to work hard. Worse, “higher-level offices just guide rather than lead the lower-level offices, which makes supervision and coordination even harder”.¹⁹ Third, the governing system of the IHIB involved overlapping lines of vertical departments (*Tiao*) and horizontal local authorities (*Kuai*), and the mutual redistribution of work and duties between *Tiaos* and *Kuais* was complicated. Often, “*Tiaos* give orders and *Kuais* enforce those orders, but *Kuais* always have insufficient staff to do the work and turn to some casual workers who have no *bianzhi* (official position in the government) and often poorly interpret and implement the policy”.²⁰ Fourth, selective policy implementation is also common at the

¹⁶ Research Team of Peking University's Institute for National Development (2013), *Shenzhen tudi zhidu gaige yanjiu baogao* (Reports on Land Tenure Reform in Shenzhen), p. 20.

¹⁷ These three documents are “CCP Shenzhen Municipal Committee and Shenzhen Municipal Government's Decision on Preventing and Handling Illegal Buildings” (Zhonggong Shenzhen shiwei shenzhen shi renmin zhengfu guanyu yancha yankong weifa jianzhu de jue ding); “Several Measures on Comprehensively Channeling and Curbing the Emergence of Illegal Buildings in Shenzhen” (Shenzhen shi guanyu quanmian shudao cong yuantou ezhi weifa jianshe de ruogan cuoshi); and “Accountability System and Performance Evaluation on Handling Illegal Land Use and Housing in Shenzhen” (Shenzhen shi chachu weifa yongdi he weifa jianzhu gongzuo gongtong zeren kaohe banfa).

¹⁸ Interview, staff of Municipal Urban Administration and Law Enforcement, Shenzhen, Nov.11, 2018.

¹⁹ Interview, staff of district-level office of IHIB, Bao'an, Shenzhen, Nov. 12, 2018.

²⁰ Interview, reporter, Bao'an Daily, Shenzhen, August 01, 2016.

grassroots level (O'Brien & Li, 1999), staff of the IHIB “tend to target soft illegal builders, and they dare not to demolish capable or contentious villagers' illegal houses”.²¹

This government-internal bargaining undermines the effectiveness of government suppression on illegal housing in several ways. The suppression system failed to collect accurate, comprehensive, and timely information on illegal buildings which led to a decoupling in officials' work and policy inconsistencies and hence reduce the credibility of the government's resolution on the crackdown. As government weaknesses provided political opportunities for challengers in social movements, the ineffectiveness of the IHIB system encouraged competition for illegal housing.

The effectiveness of government suppression has also been harmed by the political bargaining between the government and villagers. Village cadres, as street-level bureaucrats, could boycott the government when there was no strong state supervision (Chen, 2015). Grassroots cadres themselves were, in fact, equally enticed into building extralegal houses.²² As one staff member of the Street Law Enforcement Team said:

“Village cadres clearly know the situation of illegal housing, and they have full information about it, so they are very important to us, but these village cadres usually take sides with villagers on the illegal housing...we call them ‘diplomats’”.²³

For an extended period, the system relied heavily on tips by the public coupled with reports from grassroots cadres. In recent years, the Supervision Divisions, Brigades, and Squadrons began to use remote satellite sensing technology and unmanned aerial vehicles. These new technologies helped bridge the information gap but still left the government with another obstacle in the implementation: To guarantee reliable information, the grassroots enforcement forces were deeply embedded in the local communities, yet, simultaneously, this embeddedness also hindered strict implementation.

At the same time, it goes without saying that the villagers engaged in the covert building of extralegal housing. Moreover, villagers colluded with each other and generally had no incentive to spy against their neighbors on behalf of the government.

For the increasing credibility of informal housing, the major bargaining power of villagers came from their collective actions, which is discussed in detail in the next section.

Despite government suppression, there are still a huge number of “historical illegal buildings” (before June 2, 2009) and “newly-added illegal buildings” (after June 2, 2009) in Shenzhen. As of 2015, it was estimated that more than half of the permanent residents there (7.3 of 11.4 million) were living in informal buildings (see Footnote 1). According to two slightly varying figures, these extra-legal buildings accounted for 43% of the gross floor area in Shenzhen (see Footnote 2) while Xu et al. (2016, 35) maintain that, of a total of 610,000 buildings, more than 300,000 were identified as extra-legal.

4.4. Collective actions and the rising credibility of illegal housing

The second explanatory mechanism is that collective action without coordination is crucial for the bargaining power of villagers and the increasing credibility of their illegal housing. Zhou (1993, 54) found that individual peasants' behavior may “converge” into collective actions in pursuit of self-interests albeit unorganized as they tend to “convey similar claims, share similar patterns, and point to the state”. This logic appears to perfectly apply to the case of large-scale land use

in Shenzhen. Even if there is no inter-village coordination, villagers had the same interests and acted in the same way with regards to land tenure.

Villagers often employed “unorganized collective action” in developing extralegal land tenure and defending their de facto land rights. One invisible hand behind this was competition for illegal land rights among villagers.

In the race for illegal housing, villagers involved more stakeholders and organized a critical mass of supporters. As soon as their extralegal buildings were completed, villagers in Shenzhen immediately sold or rented out their properties to a large number of outsiders which significantly frustrated the government crackdown: The more external stakeholders, the more complicated the housing property rights, and the more risky government demolition becomes.

The way in which villagers spread extralegal land use to outside stakeholders was remarkable. The government's soft stance and concessions undermined its authority and opened up the way for opportunistic behavior. Gradually, villagers learned that law offenders can receive more benefits while, contradictorily, those who were compliant suffered losses (as a popular adage reads: *laoshiren chiku*). As one of my interviewees complained:

“One of our neighboring villages is very bold, it has several thousand square meters of illegal buildings, and it is the richest village around; our village is the poorest because we are too compliant”.²⁴

In this context, it needs to be noted that there was a virtual race for extralegal land use among villagers and villages. This race-like atmosphere can explain the rapid spread of extralegal housing. Helmke and Levitsky (2004, 733) maintained that the “tipping model” might account for rapid, informal institutional change, and the model suggests that “if a sufficiently large enough number of actors become convinced that a new and better alternative exists, and if a mechanism exists through which to coordinate actors' expectations, a shift from one set of norms to another may occur quite rapidly”. This study suggests that the erosion of state authority and the race for informal land tenure among villagers contributed to the tipping point of institutional change.

Villagers also adopted an engagement-based approach and found allies inside the government. As mentioned above, township governments and village committees (self-governed organizations in China) usually colluded with peasants in building extralegal houses. In addition, villagers bribed officials in charge of monitoring and demolishing extralegal houses and hindered the implementation of any harsh crackdown policy.²⁵ In Shenzhen, many officials have even been tempted into buying much cheaper extralegal houses. These officials became stakeholders of informal land tenure and, therefore, allies of the villagers. This finding is contrary to the argument that influential village cadres (especially leaders of lineage groups), once captured by local governments, will help local officials appropriate villagers' land (Mattingly, 2016). This fact echoes a conceptualization of social movement dynamics in a semi-authoritarian environment, i.e., “embedded activism”, using informal networking with party and state officials to take collective actions (Ho & Edmonds, 2008).

In addition, through collective action and guided by the village committees, especially those staffed by entrepreneurial cadres, the villagers jointly schemed and built extralegal housing.²⁶ In Shenzhen, the villagers transformed their collective economic organization into joint-stock companies to manage extralegal land tenure. At the early stages, villagers individually built extralegal housing, however, in later years, the village collective united villagers and developed real estate as a group. Many village collectives built and marketed extralegal

²¹ Interview, staff of street-level office of IHIB, Bao'an, Shenzhen, Nov. 12, 2018.

²² Interview, Director of a street law enforcement team in Nanshan District, Shenzhen, July 23, 2016.

²³ Interview, Staff of a street law enforcement team in Nanshan District, Shenzhen, July 23, 2016.

²⁴ Interview, villager, Xili Street of Nanshan District, Shenzhen, July 23, 2016.

²⁵ Interview, reporter, Bao'an Daily, Shenzhen, August 01, 2016.

²⁶ Interview, manager of a village-level shareholding corporation, Xili Street of Nanshan District, Shenzhen, July 23, 2016.

buildings in a professional manner by pooling villagers' land and capital resources and cooperating with property developers and banks.²⁷ From the outside, such collectively-built houses (*tongjian lou*) appear exactly the same as the commercial homes built by legitimate real estate developers and greatly increased the value of villagers' land and properties.

Local banks were also helping hands during the construction of illegal houses. Financing was key to illegal housing, however, state banks did not provide credit to villagers. Surprisingly, the Shenzhen Rural Commercial Bank provided loans to them. This bank originated from Rural Credit Cooperatives in Shenzhen and mainly absorbs deposits from villagers and local enterprises. As such, "the Shenzhen Rural Commercial Bank comes from villagers, and its credit goes to villagers".²⁸

Village committees helped villagers resolve their problems of market exchange. The government did not issue official certificates (with red letterhead) to owners of illegal buildings. Without formal title to their illegal buildings, how could villagers sell and rent out their properties? One village cadre told the author:

"It is not a problem for us... our village committee issues alternative certificates (with green letterhead) to villagers, with which villagers can sell out their properties...and we even invite lawyers as witness during transactions".²⁹

Interestingly, both villagers and non-local buyers believed those informal green certificates can be a credible title to their properties. Shenzhen Rural Commercial Bank also has confidence in the durable value of these illegal houses and was eager to provide mortgages to buyers.

Villagers' collective actions significantly spread and sustain their extralegal land development. Government suppression becomes extremely difficult and costly, if not impossible. The race for illegal housing enhanced villagers' confidence, and they believed what they were doing was right and that their land benefits would be well defended.

4.5. Compromise and conditional formalization

The widespread extralegal housing and its high-level institutional credibility among villagers has generated a legal-extralegal dualism in Shenzhen. This new dualism is characterized by the paradox of "original villagers' houses situated on state-owned land". Considering that a huge number of residents as well as extensive amounts of land capital have been involved in extralegal buildings, the government does not dare to use force or demolish these buildings.

There is no winner in this stalemate. For land extralegally occupied by the villagers, a local phase aptly describes the situation as:

"The government cannot take it; villagers cannot use it; while the market does not function" (Xu et al., 2016, 16; Luo, 2014, 2).

Although the municipal government nominally nationalized all rural land, most of it has been extralegally encroached upon and developed by villagers who have already seized most of the economic benefits. For the villagers, however, the value of land is depressed as their land use rights are not confirmed or protected by the government and cannot be easily transferred in the market. For market actors, especially developers, the risks to demolish, confiscate, and develop the extralegal property are high. Therefore, both the government and villagers have incentives to break the stalemate. A top priority for the local government is to determine how to peacefully take back the extralegally occupied land. For villagers, the question is how to turn the de

facto rights into enduring de jure rights.

The government and villagers have made a compromise in the Urban Renewal Program (*chengshi gengxin*) (Shenzhen Municipal Government, 2009). The essence of this program is to take back the state-owned land that is occupied by villagers and upgrade the urban communities (especially the urban villages) by making conditional concessions and working out a win-win solution.

The Urban Renewal Program is conducted within particular "urban renewal units" (*chengshi gengxin danyuan*) (i.e., a piece of state land occupied by villagers), the scope of which is carefully defined and may cover several industrial, commercial, or residential areas. Usually, the plots that are stronger in economic demand will be targeted for renewal. To qualify, the area of new land that can be gained via a house demolition must exceed a minimum of ten thousand square meters in the renewal unit while newly accrued construction land for public use shall not be less than 15% of the total newly-added land (and be more than 3000 square meters). If new residential houses are built after renewal, at least 5–20% shall be social housing (e.g., low-rent housing, affordable housing, price-fixed housing, and public rental housing). In total, approximately 29% of the newly-added construction land can be used for public facilities. Within a particular urban renewal unit, the major players include the government, developers, and villagers; the goal of the cooperation among these three actors is to achieve a win-win outcome in which each entity can obtain some benefits from the land. The key to the success of the urban renewal program is how to adequately divide the land benefits among them.³⁰

The conditional formalization of extralegal housing suggests that the informal rules in land development in Shenzhen is so credible that even the government has to admit that the informal rules have performed some functions for villagers.

5. Conclusion and discussion

It is much more difficult to describe and be precise about informal rules than it is to describe and be precise about formal rules (North, 1990, 36). Informal institutions are as equally as important as formal ones for us to understand our human world. Yet, our study should transcend institutional forms and bring institutional function or institutional credibility back into the discussion of institutions (Ho, 2014, 2016, 2017). The Credibility Thesis has been applied in many fields such as dam-building and customary land rights in Malaysia (Nor-Hisham & Ho, 2016), varying degrees of demand for property titles in Mexico (Monkkonen, 2016), informal artisanal mining in Ghana (Fold, Allotey, Kalvig, & Moeller-Jensen, 2018), the property rights of public banks in Turkey (Marois & Güngen, 2016), labor market institutions in India (Miyamura, 2016), and more. These applications have validated the Credibility Thesis and confirmed that the functions of institutions, regardless of their forms, should be evaluated under specific historical

²⁷ Interview, village cadre in Fuyong Township, Bao'an District, Shenzhen, August 01, 2016.

²⁸ Interview, Officer of Shenzhen Rural Commercial Bank, Shenzhen, Nov. 12, 2018.

²⁹ Interview, village cadre, Bao'an District, Shenzhen, Nov. 12, 2018.

³⁰ The scheme of benefits distribution works as follows: first, the government and villagers make a deal in which the urban renewal units may include legal and extralegal land. For the extralegal land, the government devised the "20–15 Rule" to divide the land benefits. As a prerequisite for being qualified to be incorporated into urban renewal units, villagers must agree to return 20% of the land they extra-legally occupy to the government for free; in the remaining 80% of extralegal land, villagers still allocate 15% for public use. According to this deal, the government can take back 32% of state land occupied by villagers. In return, the government will confirm and legalize villagers' rights to use the rest, i.e., 68%, of extralegal land. This is a significant compromise between the government and the villagers. Second, villagers and developers make another deal in which the distribution of benefits varies and depends on the negotiation between the villagers and the developers. Developers invest in the demolition and reconstruction of the renewal unit while the villagers can receive new apartments and property. Developers may get land development rights in the unit. During the negotiation and implementation of renewal, the government coordinates the entire process as a facilitator.

and social contexts.

What is not fully addressed by the Credibility Thesis and its applications is how various types of informal institutions establish their credibility among institutional challengers (and even defenders of formal rules). The author agrees that institutions endogenously shape and are shaped by different stakeholders, and the development of credibility of informality involves interactions of different interest groups (Ho, 2016, 1129–30), yet, there are two issues remaining unaddressed. First, different types of informal rules may have different dynamics of the establishment of their credibility. Second, we still do not know much about the mechanisms through which informal rules spread and obtain their collective support and shared understanding of their functions.

To fill these gaps, this article narrows down the issue of institutional credibility and informal institutions in two ways. First, it solely focuses on one particular type of informal institutions, *competing* informal institutions, which have the most conflictual relationship with formal institutions (Helmke & Levitsky, 2004, 729). Second, while recognizing the importance of credibility of informality, this article identifies two fundamental mechanisms that contribute to the increasing credibility of informal rules: (1) ineffective enforcement of formal institutions due to within-government and government-villagers' political bargaining; and (2) with a low risk of violation of formal rules; a race for informal practices ironically facilitates unorganized coordination and resolves the problem of collective action which finally leads to increasing credibility of informal rules.

The case study of extralegal land development in Shenzhen, China, suggests that, due to some weaknesses of the governing system, villagers' bold extralegal behavior was not suppressed at its inception. The low risk of extralegal land use encouraged an increasing number of villagers, individually and then collectively, to participate in extralegal land use and challenge the authority of the formal land institution. A race for extralegal land use has generated unorganized collective actions and enhanced the credibility of the informal land institution. With nearly half of the residents in Shenzhen are living in extralegal buildings, Shenzhen authorities must make a conditional concession to villagers and formalize some of the land that is occupied by villagers extra-legally.

These findings can shed light on informal practices and their establishment of institutional credibility in other fields. For example, in other areas of China, an enormous number of illegal houses also exist that are referred to as “Small Property Rights Housing” (*xiao chanquan fang*, SPRH). The SPRH usually refers to “an illegal residential building, constructed on rural collective land (*nongcun jiti tudi*) in suburban areas (*chengshi jiaoqu*) by the joint efforts of low-level local governments, entrepreneurs, and peasants for selling and renting to non-local urbanites who seek cheaper housing outside the city” (Paik & Lee, 2012, 262–263; Sun & Ho, 2018). The SPRHs have no official Property Ownership Certificate and are not protected by the law. The increasing institutional credibility of SPRHs has the same logic behind it as what occurred in Shenzhen. Township governments, villagers' committees, developers, and peasants formed a positive-sum coalition in developing SPRHs because they all benefit from the illegal housing at the cost of land expropriation by local governments at the county-level and above (Paik & Lee, 2012).

Another example that can support the theoretical framework of this article is the growth of the private sector in China. They spontaneously emerged despite suppression from the orthodox ideology and harsh policies in the Maoist era. Tsai (2006) explains how the private sector in China gradually enhanced its political legitimacy and economic security from the late 1970s. Tsai theorizes this process as “adaptive informal institutions”, arguing that adaptive informal institutions “represent creative responses to formal institutional environments that actors find too constraining...Widespread use of adaptive informal institutions may then motivate—and, indeed, enable—political elites to reform the original formal institutions” (Tsai, 2006, 117–118). However, Tsai did

not specify how the growth of the private sector spread across China and how illegally-operated businessmen resolved their problems of collective action and then achieved the “tipping point”. The coordination-by-competition mechanism may shed light on this unresolved issue.

Collective action is crucial for the development of the credibility of informal rules. It is argued that rational actors have problems with collective actions (Olson, 1971), yet we still see many that are successful. Social norms, social networks, political organizations, ideology, leadership, and selective incentive all facilitate collective actions (Goldstone, 2001; Gould, 1993; Nee & Oppen, 2012; Olson, 1971; Useem, 1980). This article finds that a coordination-by-competition mechanism could be another facilitator of them. Further studies can identify the conditions under which this unorganized coordination emerges, sustains, and works.

In the context of all of the above, it is likely that future research on the credibility of informality may be meaningfully extended to other types of informal institutions (i.e., complementary, accommodating, and substitutive informal institutions) and other mechanisms through which violators of formal institutions can achieve a critical mass and reach the “tipping point”. It is hoped that this paper has laid out the principles, guiding questions, and analytical framework for doing so.

Last but not least, we can also bring the cognitive approach to the future study of informal institutions and their credibility. As North (2005, 49) pointed out, “What people believed to be true, fair, and reasonable mattered a great deal not just to their behavior directly but also through the institutions they lived with.” Institutional credibility is about collective perception of institutional functions. Therefore, cognition and beliefs could be useful “scaffolds” on which our analysis of the establishment and change of institutional credibility rest. Having reviewed how competing, informal institutions develop into functional, credible arrangements vis-à-vis formal institutions, the following contribution by Sun and Ho (this special issue) will assess how that credibility is expressed in the behavior and views of social actors at the micro-level.

Declaration of competing interest

None.

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Appendix A. Abbreviations

IHIB	Investigating and Handling Illegal Buildings
LAL	Land Administration Law
LTR	Land tenure regime
SPRH	Small Property Rights Housing
SEZ	Special Economic Zone

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