

For the past two years, protests against land expropriation have occurred across Taiwan. The wave of discontent and questions has taken aim at what is seen as the inferiority and unsuitability of the Land Expropriation Act (土地徵收法), which led to a recent amendment by the legislature. However, the amended law will not put an end to the controversy, it will add to it.

The public have long made forceful demands for the protection of designated agricultural zones, but because of major infrastructure projects approved by the Cabinet, among other reasons, these areas can still be developed at will.

Many ongoing disputes, such as the ones over farmland in Dapu Village (大埔) in Miaoli County's Jhunan Township (竹南), the Siangsihliao (香獅寮) area of Changhua County's Erlin Township (二林) and over the Puyu development project in Hsinchu County's Jhubei Township (竹北), are major infrastructure construction projects approved by the Cabinet, giving us a hint of how this label is being misused.

The result is that the regulations about the protection of designated farmland in the new legislation are but skin deep — an empty formality.

At the level of practical public participation, the new legislation refuses to incorporate a system for public hearings. This is something that people have been calling for and that would give the public and the government an opportunity to engage in real debate.

The new legislation only allows for public hearings in cases where a designated agricultural zone will be expropriated for use in a major infrastructure project approved by the Cabinet and when that expropriation is “controversial.”

However, being controversial is an abstract and ambiguous concept, and without clear standards, it will unfortunately be at the discretion of the Cabinet to decide when a public hearing is required.

## Accountability key to democracy

Written by Hsia Hsiao-chuan 許小川  
Sunday, 25 December 2011 09:03

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In terms of compensation, the new legislation refuses to let real-estate evaluators make objective expert appraisals and instead lets local governments, which frequently are also the expropriating party, determine the market value. With the local government being both player and referee, any talk about “market value” becomes mere wordplay.

To add insult to injury, even in the case of this kind of “market value,” the new legislation says that the implementation date should be decided by the Cabinet. In other words, so long as the Cabinet has not set an implementation date, even expropriation at the market value set by the expropriating authority itself will be unachievable.

In addition, “early tender” development, through which a bid process is held before the expropriation has been approved and that lacks legal basis, remains unregulated in the new legislation.

In a democracy with its diversity of values, the pursuit of substantial democracy is always a difficult matter. This is precisely the reason why procedural justice is fundamental and crucial.

The fundamental aim of a land expropriation system is to regulate and provide a legitimate procedure for expropriations, and to guarantee the equal treatment of the public in the process is its main task.

However, a look at the amendment to the expropriation act reveals no effort toward procedural justice. Not only that, the amendment tramples all over procedural justice and humiliates the idea. This process is not the result of the rule of law that one expects in a democratic state; in fact, it is the backsliding of democracy.

One of the main ingredients in a healthy democracy is accountability, but that has been left far behind by the current implementation of the legislative and executive powers.

Many legislators do not even understand the meaning of legal bills and they only follow the executive’s lead, in effect becoming a rubber stamp for the executive.

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The executive uses this to take over legislative powers that should belong to the legislature to push behind the scenes for several preposterous legal bills that violate procedural justice without being held accountable for doing so.

The same is true for the aforementioned amendment that, while formally passed by the legislature, was in fact orchestrated by the Cabinet.

In addition to this amendment, we have also seen how the shadow dancers in the Cabinet have shouted slogans about residential justice and land justice in relation to urban renewal policies, the Eastern Development Act (東區開發法) and the early tender policy, while they have in fact sacrificed the public's rights to a place to live and a stable job.

The question of how to bring about a politics of accountability is currently the greatest challenge to Taiwan's democracy.

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Source: [Taipei Times - Editorials 2011/12/25](#)