

**Do the “Haves” Come Out Ahead?
Resource Disparity on Public-Land Usurpation
Litigation in Taiwan**

by

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Abstract

Conflicts over land are widely recognized as a major issue in most advanced and developing countries. This study on land disputes examines the impact of resource inequalities, or termed party capabilities, on public-land usurpation trial decisions in Taiwan’s district courts between 2000 and 2012. The findings reveal that defendants with superior resources (in terms of socioeconomic status, purpose of usurpation, and area of land involved) are more likely to receive not guilty or probationary verdicts in court. Taken as a whole, the evidence indicates that Taiwan’s judicial system may systematically favor litigants with superior resources, as their socioeconomic and experiential advantages could ensure their success at the expense of those with relatively few resources.

Keywords: resource inequality theory, repeat player and one-shotter, public-land usurpation, judicial politics, Taiwan

竊鈞者誅，竊國者侯(*Petty thieves are hanged but usurpers are crowned.*)
–莊子(*Chuang Tzu*)

The universal spirit of Laws, in all countries is to favor the strong in opposition to the weak, and to assist those who have possessions against those who have none. This inconveniency is inevitable, and without exception (Rousseau 1762, 200; quoted in Haynie 1994, 752).

山嘛 BOT，土地嘛 BOT，現在連海也要給我 BOT 喔! (*Mountains are on BOTs, land is on BOTs, and now even the sea will be also on BOT!*)
–line from Taiwanese movie, *Cape No. 7*

The “authoritative allocation of values” is generally regarded as a core theme in the study of politics (Easton 1953, 136). Land may be considered a major value in most developed and developing countries, and conflicts over land are recognized to be most serious in densely populated areas (Andersson 1999; Guo 2001; Ho 2001; Hsing 2006). There is considerable pressure on land in these urban areas because of population growth and the economic-oriented policies of central and local governments that concentrate people on limited areas of land. From an economic point of view, land scarcity in countries where private ownership is the norm makes conflicts over public land politically inevitable. Therefore, litigation concerning the usurpation of public land may often be better understood as politically induced.

In order to fully appreciate “who is getting what, when, and how” in society

(Lasswell 1958, 13), it is necessary to understand who has the advantage in the courts.

This study of land disputes in Taiwan employs the literature of resource inequality theory, or termed party capability theory (Galanter 1974; Wanner 1975), as its theoretical framework, and examines the impact of political and economic variables (including the social status of defendants, the purpose of usurpation, and the area of public land involved) on land litigation trial decisions in Taiwan's district courts between 2000 and 2012.

I use public-land usurpation litigation to test whether or not district courts in Taiwan are politically biased in their judgments. In particular, this study highlights the following question: are the courts' decisions in such trials influenced by the status of the litigants? There are at least two important reasons for focusing on the case of Taiwan in this respect. First, Taiwan is a robust, growing country undergoing social, economic, and political transition. Specifically, it has been in the process of transition from a one-party authoritarian system to a nascent democratic regime with aspects of institutionalized electoral competition since the late 1980s.

Second, the origins of Taiwan's socioeconomic development may be traced back to land reform in the early 1950s. This land reform—which proceeded in three phases:

compulsory rent reduction, the sale of public land to tenant farmers, and the compulsory sale of private land to its actual tillers—is considered to be one of the world’s most successful programs for removing the land issue as a major source of social conflict.¹ It provided a solid foundation for the economic prosperity and social equality that was the mark of Taiwan from the 1970s (Ho 1978; Huntington 1968, 383; Kuo 1983; Kuo, Ranis, and Fei 1981). However, population growth and increasing urbanization mean that land conflicts are presently a major problem in Taiwan society. For those who study sociopolitical evolution in newly industrializing democracies, the Taiwan case can help further the understanding of land issues and judicial politics from a comparative

¹ The emphasis on land reform came from Sun Yat-sen’s *Three Principles of the People*, but it was a program that the Chinese Nationalist Party or Kuomintang (KMT) promised but never implemented on the mainland. After retreating to Taiwan in 1949, the KMT saw land reform as a policy priority (Haggard and Pang 1994, 56). As for the KMT’s motives for land reform, the following quote from Ho (1978, 162) is revealing:

The Nationalist government arrived in Taiwan as an “outsider” with no tie or commitment to the established local elites. Thus, on the question of land reform it enjoyed greater political flexibility than do most governments... The Nationalist government therefore...not only...felt an urgent need to carry out a land redistribution program...for what it might do for the economy and social justice but also for what it might do for its own political survival.

perspective.

With this end in mind, I first of all outline the idea of resource inequality theory. I then address judicial politics in Taiwan's democracy, and put forward the position that the judiciary might have political considerations when dealing with trials concerning the usurpation of public land and the possible political factors that could affect case decisions. Finally, employing data from verdicts issued by the district courts in public-land usurpation litigation between January 2000 and December 2012, I construct hierarchical logistic regression models to test whether judgments in cases of public-land usurpation are influenced by litigation resources.

Resource Disparity in Litigation

Political science has a long tradition of studying the relationship between jurisprudence and politics. Most immediately, the courts are considered to be critical institutions for the legitimate settlement of a wide spectrum of conflicts between individuals and groups that have important implications for the distribution of values. During the legal process, the parties involved must mobilize the various resources available to them to resolve their disputes. However, resources are typically allocated unequally in societies, and inequalities in wealth and power could lead to different

consequences in legal disputes.

Resource inequality theory is the major paradigm in the study of judicial politics, and it is generally accepted that courts favor claims advanced by those with greater resources (Dunworth and Rogers 1996; Farole 1999; Galanter 1974; Songer and Sheehan 1992; Songer et al. 1999; Wheeler et al. 1987). This theory argues that the “haves” tend to come out ahead, enjoying an advantage over the “have-nots” in litigation outcomes. More precisely, it argues that government organs, corporations, businesses and associations, and unions, as well as elected representatives and public officials, have greater resources, including money and litigation experience, than ordinary individuals, and therefore are more likely to win within the legal system.

The reasons put forward by resource inequality theory are multifold. For one, Galanter’s (1974) heuristic argument suggests that the status of litigants has substantial influence on judicial outcomes. Higher-status parties typically possess superior resources, higher strategic advantages, or greater litigation experience compared to other plaintiffs or defendants. Corporations and government agencies often function as “repeat players” who engage in a lot of similar litigation over time, unlike one-shot litigants who have only occasional recourse to the courts. Therefore, repeat players (the

haves) are presumably better able to “play the rules” than one-shotters (the have-nots) in the legal process.

Moreover, because of their superior power and expertise, repeat players are able to maximize their success rates by agreeing to settlements in cases likely to be lost and by appealing cases they have the best chance of winning (Dotan 1999, 1059-1060).

Another explanation for the advantages of the “haves” in litigation concerns their ability to retain better legal counsel, to undertake more extensive research, to invest more in case preparation, and to otherwise employ better tactics, such as delay and discovery, to manipulate the litigation in order to achieve their own goals (Sheehan et al. 1992, 464-465). For these reasons, the “haves” are more likely to win in court.

This theory has been corroborated in studies of the court systems in some advanced industrial societies, e.g., the United States, Canada, and Great Britain (Atkins 1991; Dunworth and Rogers 1996; McCormick 1993; Songer and Sheehan 1992; Songer et al. 1999; Wheeler et al. 1987). Some, however, question the assumption of the institutional passivity and ideological neutrality of courts that underlies resource inequality theory (cf. Segal and Cover 1989; Baum 1998, 118-119). More specifically, these studies reason that, in some examples, resources difference in litigation success

rates reflects not only relative socioeconomic status and experience of litigants but also judicial bias, including the values, ideological preferences, and prejudices of the judges, as well as informal relationships with court personnel (Farole 1999; Sheehan et al. 1992, 468-469).

From these contending viewpoints, it would appear that the impact of resource disparity on litigation outcomes remains contentious. Yet research on the court systems of developing and non-Western countries—including the Philippines and Israel—demonstrates that the “haves” do not necessarily enjoy higher success rates than the “have-nots,” and that this is due to the institutionalized concerns for social stability and legitimacy of the courts in these societies (Dotan 1999; Haynie 1994, 1995). In this work, the main task will be to assess the connection between resource inequalities and litigation outcomes in another developing democracy, Taiwan.

Public-Land Usurpation Litigation in Taiwan

The island of Taiwan is about 234 miles long and 88 miles across at its widest point, and it has an area of 13,855 square miles. At the time of its return to China from Japan in 1945, Taiwan had a population of about six million. By May 2013, its population numbered more than 23.34 million, making Taiwan one of the most densely

populated countries in the world. The population is concentrated on the western plains and river basins because the center and the east of the island are occupied by mountains that drop steeply to the Pacific Ocean. Because of the pace of economic development in Taiwan, it is remarkably urbanized.

Land in private ownership is in short supply, so the usurpation of public land, either intentionally or unintentionally, is common in Taiwan. According to the National Audit Office, 15,252 areas of state-owned land has been occupied, with a total area of 8,705 hectares and a value of more than NT\$270 billion (approximately US\$9 billion) (Cui 2012, A1). Land scarcity means that conflicts over public land are always economically induced and politically ineluctable. From a legal perspective, the fact that disputes over land are so common can be partly attributed to the decisions reached by the courts in litigation concerning the usurpation of public land, which is the topic of this study.

To make matters worse, research has shown that because the courts have long been subject to political manipulation, the general public does not seem to trust the judiciary to be independent of political influences (Wang 2008, 2010). Take cases of vote buying and negative political campaigning for example. A number of popular

sayings about the courts reveal the negative public stereotypes of judicial verdicts—e.g., “the courts are dominated by the Kuomintang (KMT)” (法院是國民黨開的);² “those who are elected will be let off, but those who lose the elections will be imprisoned” (當選過關，落選被關); “those with good connections won’t have any problem, but those without connections will have big trouble” (有關係就沒關係，沒關係就有關係); and, “at the first trial a heavy sentence is passed, at the second trial the sentence is halved, and at the third trial ‘they eat pig’s trotter noodles’” (一審重判，二審減半，三審吃豬腳麵線 [a Taiwanese saying meaning the case has been quashed]) (Wu and Huang 2004; Wu 2012a, 2012b). These sayings reflect the widespread lack of confidence in the judiciary.

From the perspective of resource inequality, three variables may affect the court’s handling of public-land usurpation cases. First, the status of the defendants

² The relationship between the judiciary and the KMT was revealed in a controversial event in July 1995. At the time, KMT Secretary-General Xu Shui-de was holding a regional discussion with KMT representatives to the 14th Party Congress in Kaohsiung County. Pingtung County Councilor Yu Shen, Kaohsiung County Provincial Assemblyman Zhong Shao-he, and Penghu County Provincial Assemblyman Xu Su-ye were all critical of Minister of Justice Ma Ying-jeou’s vigorous investigation into vote buying. Xu Shui-de tried to comfort them, saying “it will be O.K., since the courts also belong to the ruling party” (Yang 1995, 25).

should be a significant political factor. It is generally held that “haves” consist of government agencies, corporations, businesses and organizations, associations and unions, and elected representatives and public officials, all of which possess considerable socioeconomic resources, whereas “have-nots” consist of ordinary individuals who have relatively few resources. For the reasons mentioned previously, one would expect the “haves” to come out ahead in litigation.

The second variable is the purpose of usurpation. The wide range of disputes involving public land usurpation in Taiwan can be roughly divided into two main categories: those concerning profit-making/public interest and those concerned with physical need. In cases where public land has been unlawfully occupied for reasons of private profit (e.g., involving the construction of golf courses, entertainment resorts, motels, baseball stadiums, housing developments, religious buildings, etc.) or for reasons of public interest (such as the construction of river banks, public parks, parking lots, roads, and bridges, etc., as well as afforestation), strong parties (e.g., businesses, associations, and the central and local governments) tend to dominate the litigation process because of the economic, intellectual, and political resources available to them. By contrast, the weak defendants (low-ranking veterans, aborigines, the disabled, the homeless, etc.) are social minorities who illegally occupy public land to fulfill basic

needs, such as housing and physical security. Viewed in this light, it is assumed that the former group, with its greater resources, would have an advantage within the legal system.

The third factor in this analysis is the size of the plot of land at stake.

According to the Chinese philosopher Chuang Tzu, “petty thieves are hanged but usurpers are crowned,” a quotation that might be said to lay bare the hypocrisy of the law in any given society. In order to test this conventional wisdom, I investigate the scale of the usurpation. Because land can be transformed into economic advantages, it is hypothesized that the larger the area of public land in dispute, the greater the probability that the defendants will come out ahead in litigation.

Cases involving the usurpation of public land are handled in two stages: first, the National Property Administration under the Ministry of Finance decides whether or not to investigate and file a case, and then, if a case is filed, there will be a trial in court and a verdict. There are two possible decisions resulting from the bureaucratic investigation: to file a suit or not to file a suit. When a case is brought to court, the court reaches a verdict of either guilty or not guilty, and a guilty verdict also includes the option of

probation or imprisonment.³ Since there is no material available concerning the bureaucratic investigation, this study will analyze the verdicts handed down in the district courts.

Research Hypotheses and Data Collection

From the foregoing discussion, a set of explicit hypotheses can be proposed.

HYPOTHESIS 1. *In a land usurpation case, a public or private sector organization, an elected representative, or a public official is more likely to be found not guilty by the court than a defendant who is an ordinary individual. If found guilty, the former category of defendant is more likely to be placed on probation.*

HYPOTHESIS 2. *If the defendant has usurped the land for reasons of profit or in the public interest, then that defendant is more likely to be found not guilty by the court, or if found guilty, is more likely to be placed on probation.*

HYPOTHESIS 3. *In cases concerning the usurpation of public land, the*

³ In criminal and civil law, the court decision categories are much more detailed than those adopted in this research; even so, I employ this typology for two reasons. First, this is the categorization used by the Ministry of Justice in its published material. Second, it makes it easier for those unfamiliar with Taiwan's legal intricacies to understand the categories of verdict used for public-land usurpation cases in the court system.

larger the area of land in dispute, the greater the probability of a defendant being found not guilty by the court. If found guilty, the defendant is more likely to be placed on probation.

Because of time and research limits, only verdicts of the district courts in litigation concerning the usurpation of public land are used as the dependent variable, and the units of analysis are the defendants. The dependent variable is divided into two categories: guilty or not guilty verdicts (with guilty verdicts including receiving either a prison sentence or probation).

The three independent variables in this study are the social status of the defendant, the purpose of the usurpation, and the area of land concerned. Defendant status is divided into four categories: public sector, private sector, elected representatives or public officials, and ordinary individuals. As for the purpose of the usurpation, profit-making and policy-making are both set at 1 and physical need is set at 0. The area of land at stake is divided into five categories: “large” (more than 1,892 square meters), “medium large” (between 215.9 and 1,892 square meters), “medium” (between 96 and 215.9 square meters), “medium small” (between 42 and 96 square meters), and “small” (less than 42 square meters).⁴

⁴ I have to admit that the purpose and area categories are somewhat arbitrary. In the

To examine whether resource inequalities affect court decisions in cases of public land usurpation, this study collects data on relevant litigation judgments during the period January 2000-December 2012 from twenty-one district courts, located in Taipei, Shihlin, Panchiao, Taoyuan, Hsinchu, Miaoli, Taichung, Nantou, Changhua, Yunlin, Chiayi, Tainan, Kaohsiung, Pingtung, Taitung, Hualien, Ilan, Keelung, Penghu, Kinmen, and Lienchiang.⁵ During this period, district courts reached judgments on 4,097 defendants.

Discussion of Findings

This study employs hierarchical logistic models, and the order of analysis is

raw data, the purpose of usurpation is divided into 84 categories. After recoding, there are 1,651 cases (40.30%) of usurpation for profit or public interest and 2,446 (59.70%) for physical need. The recode for the area of land could be even more contentious. Considering the frequency distribution, I recode the variable, and there are 819 cases (19.99%) of “large,” 810 cases (19.77%) of “medium large,” 819 cases (19.99%) of “medium,” 820 cases (20.01%) of “medium small,” and 829 cases (20.23%) of “small.”

⁵ The data used in this study is limited to the period from the year 2000, as only from that date was it possible to collect consistent computerized data from district courts nationwide via the “Law and Regulations Retrieving System, the Judicial Yuan of the Republic of China” (<http://jirs.judicial.gov.tw/Index.htm>).

shown in figure 1.6 First, I analyze whether the social status of the defendant, the purpose of usurpation, and area of public land concerned have a bearing on the verdict in cases of the usurpation of state-owned land with a not guilty verdict. Next, I examine whether the above-mentioned factors affect the awarding of a probationary sentence to guilty defendants.

[Figure 1 about here]

I first perform a cross-tabulation of district court decisions in public land usurpation cases. As shown in table 1, out of the 4,097 cases, 3,509 defendants were ordinary individuals (85.65%), 312 were from the private sector (7.62%), 254 were from the public sector (6.20%), and 22 were elected representatives or public officials (0.54%).

There are two possible explanations for such findings. One is that, compared to the “haves,” the “have-nots” are more likely to illegally occupy state-owned land because they have limited socioeconomic resources. The other reason is that bureaucratic investigations into the usurpation of public land could be highly selective and that it is

⁶ The hierarchical logistic model, or continuation-ratio logistic model, was proposed by Fienberg (1980) for ordinal outcomes in which the categories represent the progression of stages in some process (cf. McCullagh and Nelder 1989, 160). In this study, the judicial process is indeed a sequential decision-making mechanism.

hard to define what constitutes “land-usurpation behavior.” In these circumstances, the government’s handling of land disputes could be affected by political considerations.

The results also indicate that 3,569 defendants were found guilty (receiving either a probationary or prison sentence), while 528 were found not guilty. In cases involving “small” areas of land, 786 defendants were ordinary people. Of these, 682 were found guilty and received prison sentences (86.77%), 46 were found guilty but given probationary sentences (5.85%), and only 74 (8.65%) were found not guilty.

In cases involving “large” areas of land, 600 of the defendants were ordinary individuals, of whom 482 were found guilty and received prison sentences (80.33%), 46 were found guilty but allowed probation (7.67%), and only 74 (12.33%) were found not guilty. There were 219 “haves” (defendants from the public and private sectors, elected representatives, and public officials) charged with the usurpation of state-owned land. Only 105 of these were found guilty and given prison sentences (47.95%), 17 were found guilty but allowed probation (7.77%), and 97 (44.29%) were found not guilty. It is clear from this evidence that defendants with superior resources are more likely to receive not guilty verdicts than those with relatively few resources.

[Table 1 about here]

Table 2 displays the estimates for the hierarchical logistic coefficients of not guilty decisions in the district courts, and the analysis yields some interesting and anticipated findings. The data indicate that, compared to ordinary individuals, belonging to the public and private sectors, and being elected representatives or public officials are positive and significant determinants of not guilty decisions in public-land usurpation cases; that is, defendants with higher status are more likely to receive not guilty verdicts than less-experienced single-shot defendants. This is in line with Hypothesis 1. The results also reveal that the factor of purpose of usurpation has a significant correlation with court decisions in the anticipated direction. Hypothesis 2 suggests that, other things being equal, if the defendant is acting for reasons of profit or in the public interest, they are more likely to obtain a not guilty verdict. As for the area of land involved, one of the four coefficients (“large”) reaches position and statistical significance, and this runs in the predicted direction.

[Table 2 about here]

The estimates in table 3 are the results of analysis of district court probationary sentences. Also as hypothesized, most of them emerge as statistically significant, which implies that these independent variables have an impact on probationary sentences in

district courts. For one, there is a difference between the private sector and ordinary people where probation verdicts are concerned. As is true of purpose of usurpation, profit-making and public interest emerges as statistically significant and in the anticipated direction; this means that repeat players are more likely than one-shotters to receive probationary decisions, *ceteris paribus*. As for the area of land involved, defendants in cases involving both “large” and “medium large” areas of land are more likely to receive probation, while the other two independent variables have little influence on probationary sentences.

[Table 3 about here]

Conclusion

Although the judiciary plays an important role in the political process, it has received little attention from a comparative perspective. Only a few of the judiciaries in Western countries have been researched empirically, and there has been little systematic analysis of the judicial systems of nascent democracies and their problems. This study addresses the judicial politics of a newly democratized regime, Taiwan. I use public-land usurpation litigation in the district courts between 2000 and 2012 as an indicator of whether or not Taiwan’s judicial outcomes are substantially influenced by the

status of litigants.

According to resource inequality theory, the amount of resources available to litigants is a good predictor of court decisions, and this research seems to support this theory. The major findings of this study are as follows. First, the hypothesis that high status defendants have an advantage in judicial verdicts is supported. The findings reveal that government agencies, the private sector, and elected representatives and public officials are more likely to receive favorable verdicts in trials involving the usurpation of state-owned land; that is, these defendants with superior resources are more likely to receive not guilty verdicts or probationary sentences in the district courts.

Second, purpose of usurpation also has a consistent influence on the courts' decisions. Those who occupy public land for reasons of profit or in the public interest have an advantage in court over those who occupy land in order to fulfill a physical need. Third, the results of this study support the presumption that the larger the area of land involved, the more likely it is that the defendant will receive a not guilty verdict or a probationary sentence. Taken as a whole, the assumption of resource disparity does tally with the data, suggesting that the courts systematically favor the "haves," because of socioeconomic and experiential advantages that help ensure their success at the expense

of the “have-nots.”

Of course, this study can be faulted in a variety of ways. For one, it is necessary to investigate decisions in the high courts and the Supreme Court if one is to prove or disprove the popular saying that “at the first trial a heavy sentence is passed, at the second trial the sentence is halved, and at the third trial the case is quashed.” Second, this study only examines one aspect of court decisions, and thus the findings are not conclusive and further research is needed. Other issues closely related to the judiciary should be given more attention, such as the judiciary’s handling of cases of political corruption. Third, a qualitative approach involving, for instance, participation observation and intensive interviews, is necessary to probe the causes and consequences of land-usurpation litigation. Last but not least, an attempt could be made to apply this research to other Asian countries—China, for example—even to the extent of making cross-national comparisons. Clearly there is still much potential for future research in this field.

References

- Andersson, Jens A. 1999. "The Politics of Land Scarcity: Land Disputes in Save Communal Area, Zimbabwe." *Journal of Southern African Studies* 25 (4): 553-578.
- Atkins, Burton M. 1991. "Party Capability Theory as an Explanation for Intervention Behavior in the English Court of Appeal." *American Journal of Political Science* 35 (4): 881-903.
- Baum, Lawrence. 1998. *The Supreme Court*, 6th ed. Washington, DC: Congressional Quarterly.
- Cui, Ci-ti. 2012. "More than 15,000 Plots of State-Owned Land have been Usurped." [In Chinese] *Gongshang Shibao* [Commercial Times] May 27: A1.
- Dotan, Yoav, 1999. "Do the 'Haves' Still Come Out Ahead? Resource Inequalities in Ideological Courts: The Case of the Israeli High Court of Justice." *Law and Society Review* 33 (4): 1059-1080.
- Dunworth, Terence, and Joel Rogers. 1996. "Corporations in Court: Big Business Litigation in U.S. Federal Courts, 1971-1991." *Law and Social Inquiry* 21 (3): 497-592.
- Easton, David. 1953. *The Political System: An Inquiry into the State of Political Science*. New York: Knopf.
- Farole, Donald J., Jr. 1999 "Reexamining Litigant Success in State Supreme Courts." *Law and Society Review* 33 (4): 1059-1080.
- Fienberg, Stephen E. 1980. *The Analysis of Cross-Classified Categorical Data*, 2nd edition. Cambridge, MA: The MIT Press.
- Galanter, Marc. 1974. "Why the 'Haves' Come Out Ahead? Speculations on the Limits of Legal Change." *Law and Society Review* 9 (1): 95-160.
- Guo, Xiaolin. 2001. "Land Expropriation and Rural Conflicts in China." *The China Quarterly* 166: 422-439.
- Haggard, Stephan, and Chien-kuo Pang. 1994. "The Transition to Export-led Growth in Taiwan." In *The Role of the State in Taiwan's Economic Development*, ed. Joel D. Aberbach, David Dollar and Kenneth Sokoloff. Armonk, NY: M.E. Sharpe. Pp. 47-89.
- Haynie, Stacia L. 1994. "Resource Inequalities and Litigation Outcomes in the Philippine Supreme Court." *Journal of Politics* 56 (3): 752-772.
- Haynie, Stacia L. 1995. "Resource Inequalities and Regional Variation in Litigation Outcomes in the Philippine Supreme Court, 1961-1986." *Political Research Quarterly* 48 (2): 371-380.
- Ho, Peter. 2001. "Who Owns China's Land? Policies, Property Rights and Deliberate Institutional Ambiguity." *The China Quarterly* 166: 394-421.
- Ho, Samuel P.S. 1978. *Economic Development of Taiwan, 1860-1970*. New Haven: Yale University Press.
- Hsing, You-tien. 2006. "Land and Territorial Politics in Urban China." *The China Quarterly* 187: 575-591.
- Huntington, Samuel P. 1968. *Political Order in Changing Societies*. New Haven: Yale

- University Press.
- Kuo, Shirley W.Y. 1983. *The Taiwan Economy in Transition*. Boulder: Westview.
- Kuo, Shirley W.Y., Gustav Ranis, and John C.H. Fei. 1981. *The Taiwan Success Story: Rapid Growth with Improved Distribution in the Republic of China, 1952-1979*. Boulder: Westview.
- Lasswell, Harold D. 1958. *Politics: Who Gets What, When, How*. New York: McGraw-Hill.
- McCormick, Peter. 1993. "Party Capability Theory and Appellate Success in the Supreme Court of Canada." *Canadian Journal of Political Science* 26 (3): 523-540.
- McCullagh, P., and J.A. Nelder. 1989. *Generalized Linear Models*, 2nd edition. London: Chapman and Hall.
- Rousseau, Jean-Jacques. 1762. *Emilius and Sophia: Or, A New System of Education*. Vol. 2. London: T. Becket and P.A. de Hondt.
- Segal, Jeffery A., and Albert D. Cover. 1989. "Ideological Values and the Votes of the U.S. Supreme Court Justices." *American Political Science Review* 83 (2): 557-565.
- Sheehan, Reginald S., William Mishler, and Donald R. Songer. 1992. "Ideology, Status, and the Differential Success of Direct Parties before the Supreme Court." *American Political Science Review* 86 (2): 464-471.
- Songer, Donald R., and Reginald S. Sheehan. 1992. "Who Wins on Appeal? Upperdogs and Underdogs in the United States Courts of Appeals." *American Journal of Political Science* 36 (1): 235-258.
- Songer, Donald R., Reginald S. Sheehan, and Susan Brodie Haire. 1999. "Do the 'Haves' Come Out Ahead over Time? Applying Galanter's Framework to Decisions of the U.S. Courts of Appeals, 1925-1988." *Law and Society Review* 33 (4): 811-832.
- Wang, Chin-shou. 2008. "Judicial Independence and Democratic Accountability." [In Chinese] *Taiwan Political Science Review* 12 (2): 115-164.
- Wang, Chin-shou. 2010. "The Movement Strategy in Taiwan's Judicial Independence Reform." *Journal of Current Chinese Affairs* 39 (3): 125-147.
- Wanner, Craig. 1975. "The Public Ordering of Private Relations: Part One: Initiating Civil Cases in Urban Trial Courts." *Law and Society Review* 8 (3): 421-440.
- Wheeler, Stanton, Bliss Cartwright, Robert A. Kagan, and Lawrence M. Friedman. 1987. "Do the 'Haves' Come Out Ahead? Winning and Losing in State Supreme Courts, 1870-1970." *Law and Society Review* 21 (3): 403-445.
- Wu, Chung-li, and Chi Huang. 2004. "Politics and Judiciary Verdicts on Vote Buying Litigation in Taiwan." *Asian Survey* 44 (5): 755-770.
- Wu, Chung-li. 2012a. "Charge Me if You Can: Assessing Political Biases in Vote-buying Verdicts in Democratic Taiwan (2000-2010)." *The China Quarterly* 211: 786-805.
- Wu, Chung-li. 2012b. "Politics and Judicial Verdicts on Defamation Litigation in Taiwan." The 2012 Annual Meeting of Midwest Political Science Association, Chicago, Illinois, April 12-15.
- Yang, He-lun. 1995. "Xu Shui-de said: The Courts are owned by the Ruling Party." [In Chinese] *Xinxinwen* [The Journalist] 437 (July 23-27): 25.

Figure 1. The Analytical Order of the Hierarchical Logistic Model

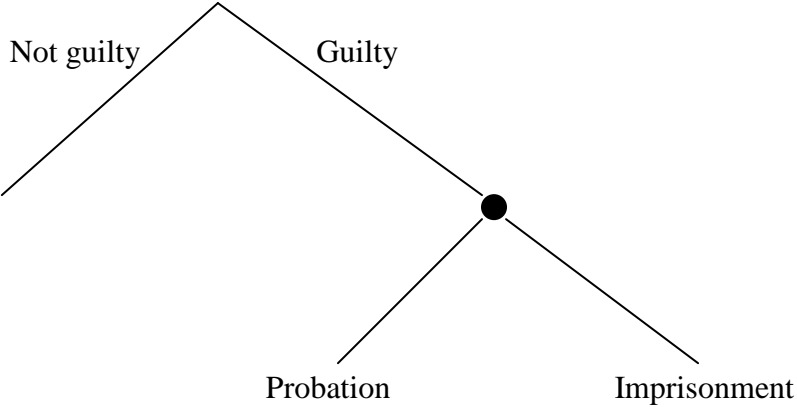


Table 1. The Courts' Decisions in Public-Land Usurpation Cases

Unit: Defendant

| | | Area of land usurped | | | | | | | | | |
|--|--------------|-----------------------------------|------------------|-----------------------------------|------------------|-----------------------------------|------------------|-----------------------------------|------------------|-----------------------------------|------------------|
| | | Large | | Medium large | | Medium | | Medium small | | Small | |
| | | Profit-making/ public interest | Physical need | Profit-making/ public interest | Physical need | Profit-making/ public interest | Physical need | Profit-making/ public interest | Physical need | Profit-making/ public interest | Physical need |
| Public sector | Imprisonment | 26 | 2 | 44 | 0 | 12 | 1 | 8 | 1 | 15 | 0 |
| | Probation | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Not guilty | 41 | 0 | 65 | 0 | 12 | 0 | 21 | 0 | 6 | 0 |
| Private sector | Imprisonment | 68 | 5 | 64 | 8 | 22 | 4 | 13 | 2 | 13 | 4 |
| | Probation | 17 | 0 | 4 | 0 | 8 | 0 | 4 | 1 | 4 | 0 |
| | Not guilty | 40 | 1 | 20 | 0 | 2 | 1 | 4 | 2 | 1 | 0 |
| Representatives and public officials | Imprisonment | 4 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Probation | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| | Not guilty | 15 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Ordinary Individuals | Imprisonment | 128 | 354 | 173 | 309 | 239 | 416 | 187 | 499 | 139 | 543 |
| | Probation | 23 | 21 | 25 | 39 | 24 | 27 | 13 | 18 | 16 | 20 |
| | Not guilty | 45 | 29 | 31 | 26 | 21 | 29 | 10 | 37 | 21 | 47 |

Table 2. Logit Estimates for the Courts' Not Guilty Decisions in Public-Land Usurpation Cases

| Independent variable | $\hat{\beta}$ | $\exp(\hat{\beta})$ |
|---|---------------------|---------------------|
| Defendant (ordinary individuals=0) | | |
| Public sector | 2.200*** (.159) | 9.026 |
| Private sector | .649*** (.166) | 1.914 |
| Representatives and public officials | 2.624*** (.494) | 13.785 |
| Purpose of usurpation (physical need=0) | | |
| Profit-making/public interest | .592*** (.121) | 1.807 |
| Area of land usurped (small=0) | | |
| Large | .495** (.162) | 1.641 |
| Medium large | .165 (.167) | 1.179 |
| Medium | -.299 (.185) | .742 |
| Medium small | -.102 (.179) | .903 |
| Intercept | -2.657*** (.133) | |
| -2 Log likelihood=-1342.838 n=4,097 $\chi^2=462.80$ df=7 $p \leq .001$ | | |

Notes: Estimated robust standard errors are shown in parentheses.

† $p \leq .10$; * $p \leq .05$; ** $p \leq .01$; *** $p \leq .001$.

Table 3. Logit Estimates for the Courts' Probation Decisions in Public-Land Usurpation Cases

| Independent variable | $\hat{\beta}$ | $\exp(\hat{\beta})$ |
|---|---------------------|---------------------|
| Defendant (ordinary individuals=0) | | |
| Private sector | .377† (.207) | 1.459 |
| Representatives and public officials | .335 (1.104) | 1.398 |
| Purpose of usurpation (physical need=0) | | |
| Profit-making/public interest | .659*** (.139) | 1.932 |
| Area of land usurped (small=0) | | |
| Large | .473* (.216) | 1.606 |
| Medium large | .580** (.211) | 1.787 |
| Medium | .308 (.213) | 1.360 |
| Medium small | -.154 (.237) | .858 |
| Intercept | -3.069*** (.170) | |
| -2 Log likelihood=-904.348 n=3,460 $\chi^2=62.19$ df=7 $p\leq.001$ | | |

Notes: Estimated robust standard errors are shown in parentheses.

† $p\leq.10$; * $p\leq.05$; ** $p\leq.01$; *** $p\leq.001$.