

# 「誰的公平？誰的正義？」

## 從土地增值稅爭議談公平與權力之關係\*

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從社會學的角度來看，一般在分配東西時所用之公平規範至少有六大類。這些規範之公平性及適用性是受分配目標，社會階級，社會發展及文化等多種因素的影響。因土地使用的目標是多元的，故現行土地增值稅制即包含了多種分配公平的規範。目前稅制改革引起爭議原因之一，即為各社羣對政府要如何改變這些公平規範所維持的複雜均衡點有不同的意見。此外，現行土地增值稅制與平均地權，漲價歸公的道德目標有差距存在。土地價格狂飆突顯這個差距，而造成道德秩序上的危機感也是引起爭議的原因。

爭議過程中，各社羣所用之公平主張，不僅代表不同之利益，也顯示出各社羣對政府權力與公平間的關係有不同看法。由於公平的規範及意義是多重的，因此在判斷什麼是公平時，須問是誰定義公平及定義之程序為何。本文的假設是當受公平定義影響者有平等權力參與定義，並依哈伯瑪斯之理想說話情境定義時，則權力與公平是相輔相成的。離此假設狀態愈遠，則權力與公平呈現對立，乃至於主從之關係而使公平成爲一種意識型態。

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### 一、前言

在土地增值稅制改革的過程中，如何改革才是公平合理的，是爭議的重

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\* 本文承蒙戴華先生，陳德光先生，以及兩位匿名評審提出寶貴意見，在此一併致謝。

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**“Whose Fairness? Whose Justice?”**  
**An Exploration of the Relationship between**  
**Fairness and Power Based on the Controversy**  
**of the Reform of Land Value Increment Tax**

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**Abstract**

In general people use six general distributive rules to allocate various things. Factors such as the goals of distribution, social classes, levels of societal development, and culture would influence the fairness and relevance of these rules. Since the goals of land utilization are manifold, the current land value increment tax system is based on many distributive rules. One of the reasons why the proposed reform of this tax system aroused such a bitter controversy is that various social groups have different ideas as to how the government should maintain the complex balance of distributive rules implied in the tax system. Another cause of controversy is that the rapid rise of land value in the last few years accentuates the discrepancy between the present land value increment tax system and its intended moral objects of “the equalization of land ownership and the public appropriation of all increases in land value,” which in turn creates a sense of moral crisis.

During the period of controversy, various social groups had advocated different claims of fairness which represented not only different interests but

also different views about the relationship between the governmental power and fairness. Because of the plurality of norms and meanings of fairness, it is important to ask who define what is fair and how this definition is achieved. The key argument of this essay is that power and fairness would be in harmony if those affected by the definition of what is fair have equal right to participate the defining process and the defining process is concordant with Habermas's "ideal speech situation." The further the defining process is away from the ideal situation, the more possible that the claims of fairness would be advocated to against those with power. The opposite of the ideal situation is that power turns the claims of fairness into ideology.