

# *Analysis on the Process of the Rural Land Transfer System in China*

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**Abstract**—The rural land transfer is the product of the development of the household contract responsibility system, is also a matter of trial and error. On the basis of combing land transfer policy, this paper divides rural land transfer into five stages, and analyzes the problems of rural land transfer at the current stage. For the moment, there are two outstanding problems in the process of rural land transfer: farmers do not have entire disposal of rural land and government administrative intervention is too much. In view of the above problems, the paper thinks that creating an appropriate institutional environment and limiting government administrative intervention are the two effective solutions towards existing problems.

**Keywords**—the Rural Land Transfer, Process, Stage, Problems, Suggestion, China

## I. INTRODUCTION

Since 1980s, under the effect of market economy, the household contract responsibility system began to show a lot of inadaptability, such as rural economic growth began slowing obviously; a large number of small scattered lands in rural areas are difficult to be concentrated effectively, etc. All these signs indicate that the improvement of rural land system has reached the point of no delay. The core of the rural land transfer system is to ensure the ownership of rural land remains the same, separate rural land contract rights and management rights, make the reasonable flow of agricultural production factors with the help of market mechanism, so as to achieve economies of scale and intensive effects. It can be said that the rural land transfer system reform has become an inevitable choice and the future development direction of China's rural land system in the new social and economic environment.

## II. ANALYSIS ON THE NECESSITY OF RURAL LAND TRANSFER

(1) The reform of the rural land transfer system is the supplement and perfection of the defects of the Household Contract Responsibility System. The fact proved that in the course of land contract, the way of dividing the rural land according to the population made the land size which farmers managed is too small, land fragmentation is serious, as a result, restricted the promotion of new agricultural technology and

agricultural mechanization adoption. At the same time, it is difficult to obtain accurate market information, resulting in the blindness and homogeneity of agricultural production arrangement. Vicious spiral of difficult to buy –difficult to sell is inevitable, not only cause agricultural production losses also affect the income of farmers. Therefore, we must innovate the rural land system, promote the improvement of the rural land use right system.

(2) The direction of rural land system reform can only be the circulation of agricultural land use rights, which decided by the social security function of rural land. Since 1949, China's rural development has gone through more than 60 springs and autumn periods, the rural population expanded from 400 million to 900 million people today, the per capita arable land has been reduced by half. More population with less land is the special situation of our country. Quite a long period of time in the future, relying on government to provide social security for such a large group of farmers is not realistic, made the rural land become the final barrier for the farmers to live with. Besides this, because of the instability of the employment of non-agriculture industries, farmers do not want to give up the rural land use right for a long time. In addition, development of Chinese society also shows that with the increase in the number of landless farmers, the cost of maintaining social stability will increase. From this view, the current direction of China's rural land system reform can only to realize the innovation of agricultural land system by means of the transfer of the rural land use right under the premise that the rural land ownership is constant.

(3) The transfer of rural land use right is the guarantee for the adjustment of agricultural industrial organization and the realization of scale management of rural land. Nowadays, grain growth is no longer the only goal of the pursuit of agricultural production, on the contrary, the development of high quality and high efficiency of agricultural products has become the trend of development of agricultural production. This adjustment is not simply a change in the proportion of internal structure, but to use new means, new system and new technology to replace the outdated means, the outdated system, and the outdated technology. The use of the new segments, the new system and the new technology require rural land

concentrated and relatively stable to imply agricultural modern machines and equipments. This shows that the adjustment of agricultural structure and the implementation of scale management can only be achieved by means of the transfer of rural land use rights.

(4) The transfer of rural labor force to non-agricultural industries makes the rural land transfer inevitable. With the development of the second property and the third industry, as well as the accelerated pace of urbanization, the numbers of farmers who was employed by non-agricultural industry was increased steady. Some households that transfer out labor force are unable to cultivate land; some households that non-agricultural income has become main source of the family's economy do not want to cultivate land, leading to the emergency of problems of rural land wastes and low efficiency of land use to some extent. Inefficient use of land or abandoned will become a necessity if we don't prompt the transfer of land use rights.

(5) Rural land transfer is an objective requirement of increasing farmers' income. At present, "Three Rural Issues" is the top priority of government work, and the core of the "Three Rural Issues" is how to quickly increase the income of farmers. But the pattern of rural land sharing makes it difficult for farmers to rely on limited land to achieve revenue growth. As a result, the farmland circulation becomes an inevitable choice under the circumstances of increasing of farmers' income. On the one hand, farmers can increase the family income through working away from hometown or going out for business; on the other hand, farmers who transfer in rural land can effectively reduce the operating cost of land by way of intensive management of land, even they can adopt agricultural science and technology to increase land production and family income. All in all, the rural land use right transfer is a "win-win" choice.

### III. THE COURSE OF RURAL LAND TRANSFER

It should be said that the rural land transfer is a product of the development of the household contract responsibility system to a certain stage, is a matter of trial and error. According to the time and spirit of the documents of rural land transfer, the paper think that the rural land transfer has experienced five different stages: banned stage, allow transfer stage, transfer in accordance with the law, standard transfer, promote transfer etc.[1]

#### A. Banned stage(1978-1983)

The current rural land transfer system originated from the establishment of the Household Contract Responsibility System. In 1978, 18 farmers from Xiaogang village launched "All-round Responsibility System" movement spontaneously, promoting the transformation of China's rural land system from the simple collective ownership to the two rights separation model which is the double-decked running system that lands owned by collective and used by family according to contract. But the national has always taken forbidden attitude towards the rural land transfer. On New Year's Day of 1981, the first No. 1 Central Document that is related to "Three Rural Issues" in history of new China was issued by

the central committee of the communist party of China, the document pointed out that farmers cannot sell, lease, transfer and abandon rural land which contracted from the rural collective. If the farmers are unable to manage the contracted land or engage in non-agriculture business operations, they must return the rural land to the collective. This shows that the attitude of the central government on the rural land transfer is prohibited. There were only two choices for the land: to cultivate or return to the collective.

#### B. Allow transfer stage(1984-1987)

No.1 Document in 1984 made the rural land transfer possible. In spite of the spirit of the prohibition of the selling, buying, leasing, renting of the rural land, the document has given the third option for the farmers to the land, "during the rural land contract period, if farmers were unable to cultivate or engage in other industry, with the agreement of rural collective organization, farmers could transfer rural on their own". [2]This is the first time the state allows rural land transfer. Then, the file issued in 1986 pointed out that the central government not only allowed to subcontract rural land but also encouraged rural land to be centralized to farming experts. This is the first time for the country issued a clear signal to encourage the transfer of rural land. Subsequently, in 1987, when the State Council approved the appropriate scale operation of land in the coastal economically developed provinces, it pointed out that the farmers who has long been engaged in other business without farming the land should terminate the contract with the collective; or with the approval of the collective, the farmers subcontracted rural land to others. At the same time, the State Council made a normative indication about the rural land transfer. This shows that the Central Committee of Communist Party of China has experienced a transformation from prohibition to permission on the rural land transfer. However, this change is reflected in the form of documents, the relevant laws and regulations have not been followed up.

#### C. Transfer in accordance with the law(1988-2000)

In April 1988, the first session of the seventh national people's congress amended the constitution, put forward that the use right of the rural land can be transferred according to the law. It was the first time that the rural land transfer has been standardized from the height of the national law. On November 5, 1993, the state issued a document that in line with the "three premises" (not to shake the collective ownership of rural land, not to change agricultural purposes of rural land, to obtain the consent of the collective), farmers can transfer the rural land. A week later, the third plenary session of the 14th CPC central committee was held, affirmed the practice of compensable transfer of rural land, listing two specific forms of development of scale of operation (subcontracting and shares). In March 1995, the State Council promulgated the policy of deepening the reform of rural economic system, not only increase the specific forms of agricultural land transfer but also give farmers right to negotiate freely on the transfer form, the economic compensation and other matters. The file clearly defined the connotation and form of rural land transfer, and is the first document to formally use the term "land transfer". On October

14, 1998, the party's 15th session of the Third Plenary Session of the resolution required that we must adhere to the principle of voluntary and paid circulation; nobody can force farmers to transfer rural land for any reason. On May 6, 1999, the state council issued a notice to resolutely investigate and deal with the illegal transfer of land use rights and illegal trading behavior of collective land.

It can be seen from 1988 to 2000, more than 10 years, in addition to the continuous advancement of the central resolution, the Constitution and the Land Administration Law have also been revised subsequently, which made the land circulation get into the legal track.

#### *D. Standard transfer(2001-2007)*

On December 30, 2001, the central government issued a Notice on doing well the work of the transfer of the rural land contracted by farmers. This is the first special notice on the work of agricultural land transfer in the history of the party, meaning the new stage of the standardization of agricultural land transfer has come. In 2002, the Ministry of Agriculture issued a circular, emphasizing that the rural land transfer has important practical significance and far-reaching historical significance for the promotion of agriculture, rural economic and social development. In March 2003, the "Rural Land Contract Law" was formally implemented in the whole country, the determined the legal form of rural land contracting right and the way of land transfer is also defined. On 19 January 2005, the Ministry of Agriculture issued a document that made specific provisions on the transfer of the parties, the transfer mode, the transfer of the contract and the transfer of management and so on, provided a more complete implementation details for the transfer of agricultural land. On March 16, 2007, the Fifth Session of the Tenth National People's Congress adopted the "Property Law", for the first time, it confirmed the rural land contractual management right as property right, which is a great advance in the history of legislation. Unfortunately, due to the transformation of the rural land contract management rights to property rights is not completely, the free flow of rural land has not come.

All in all, since the beginning of the new century, the relevant departments of state not only sum up the practical experience of agricultural land transfer, but also improved the laws and regulations of the circulation of agricultural land and the implementation details.

#### *E. Promote transfer(2008-so far)*

In 2008, Notice on doing well the circulation management and service work of the current rural land contract management right was issued; it is the programmatic document to promote the reform of rural land transfer system in the new era. No.1 Document of 2009 was issued to encourage the development of professional service organizations of agricultural land transfer. No.1 Document of 2001 and 2012 was required to strengthen the guidance, management and service work for the rural land transfer in order to resolve the contradictions in the circulation of agricultural land, to build a harmonious new countryside. For the first time, the concept of "Family Farm" was appeared in the No.1 Document of 2013 to encourage and support the

contracted rural land transfer to the large farmer-households, family farms and farmers' cooperatives. In 2014, the state put forward that the conditional place can grant awards for the rural land transfer, to encourage the development of professional cooperation, joint stock cooperation and other forms of farmers' cooperatives. No.1 Document of 2016 transformed from simply promote the numbers of the rural land transfer to the promotion and popularization of the service quality and service level of the rural land transfer.[3]

From the institutional level, since the opening-up policy, the rural land transfer system has experienced five different stages of institutional change and made a great progress. But with the deepening reform of the household contract responsibility system and the great changes of the social and economic situation, there are still many problems existing in the current rural land transfer. The first one is that the right of rural land transfer is insufficient. In fact, the free flow of the land use right is not a free flow in the true sense. The current laws and regulations limit the right of the farmers to dispose their land freely. The farmers cannot carry out the mortgage, auction and sale of agricultural land management right. The second one is that farmers didn't really want to transfer rural land. Some problems such as the lack of rural social security, instability of non-agricultural employment and son on caused the risks of rural land transfer is very high. Besides this, frequent land adjustment make rural land use rights lack of security, limits the enthusiasm of farmland circulation. At the same time, the low price of rural land transfer made farmers reluctant to transfer land. According to the datum in 2007, the average price of rural land transfer is RMB293 each mu. [4] Thirdly, the market mechanism of land transfer has not yet formed. In many places in China, the circulation of agricultural land is not driven by farmers' voluntary and market mechanism. Administrative interference is too much. In addition, the imperfect mechanism of farmland transfer market leads to the block of agricultural land transaction information, which reduced the possibility of optimizing the allocation of agricultural land management right in a wider range. Survey data shown that more than 70% of the rural land transfer took place in the village.[5]

#### **IV. SUGGESTIONS ON PROMOTING THE RURAL LAND TRANSFER**

(1) Restriction of government intervention in the process of rural land transfer. At present, many of the problems of rural land transfer caused because the government disguised as land owner to limit or promote the transfer of rural land. If we want the rural land to transfer freely and make the rural land turn into capital, we must exclude all the administrative interventions and constraints in the process of the rural land transfer.

(2) Creating institutional environment for rural land transfer. We must speed up the construction of rural social security system if we want to promote the transformation of land from "non-circulation" to "circulation" and from "short-term transfer" to "long-term transfer". In order to lay the foundation for the transfer of rural land, we should use the social security system to replace the function of land security to stimulate the enthusiasm of farmers to transfer agricultural land.

(3) Through establishing rural land transfer market and rural land transfer service agencies to improve the rural land transfer mechanism.[6] With the help of the market, the search cost and negotiation cost can be effectively reduced in the process of farmland transfer. In addition, through the financial services institutions, the rural land can realize the function of mortgage, sale, auction etc. In fact, in many economically developed provinces, the agricultural income provided by the land has been minimal to the farmers, for them, the land should be a property resource with liquidity and security value. In poorer areas, rural land becomes a more valuable family property for farmers. The realization of agricultural land mortgage function is helpful to agricultural investment and rural development.

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