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Study: Current Situation of Land Rights (rural/urban) in China

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Introduction and Background

In respect of China's envisaged "Rural Land Rights System Reform" the topic "Land use rights" is the main subject of Sino-German cooperation in the year 2019 including the expert information study tour (FIF) to Germany in September 2019.

In its overriding plan of rural revitalisation, the government of China aims to drive forth a comprehensive land rights reform. Main objectives of the reform are the modernisation of Chinese agriculture, building up medium-scale agri-businesses, encourage highly educated young agri-professionals to utilize unexploited arable land and stimulate agri-business start-ups.

China has already gone through several land reforms (e. g. Hukou system reform). What have been the challenges and positive results from previous reforms? What is the impact of previous changes such as, for example, the opening of the rural land market by replacing Hukou-based land rights with market-based rights?

Research Objective:

Gain understanding of status quo of land consolidation process and underutilised arable land in China

To gain better insights and understanding of the status quo, the DCZ carried out this in-depth analysis of the current situation of land rights, land use and distribution of land revenues in China in the context of the upcoming rural land system reform in China.

Part One of this research draws attention to the previous development and underlying reasons that led to the current situation in land management and cultivation. It explores the process and implications of urbanisation and the natural preconditions for the uncultivated agricultural land in China.

Part Two investigates the status quo of the transfer system of land contracting and management rights in China. Namely the "Three Rights" are clarified: the "Measures for the Administration of the Transfer of Rural Land Contracted Management Right", the "Property Law" and "Land Administration Law". Uncoordinated and unstandardised handling of land transfer among farmers in the past led to the existing problems described in this part, followed by China's government's guidance and service provided.

The Evaluation of Rural Land Value is defined in Part Three, namely the factors affecting the price of land for a transfer. In consequence, Part Four explores how to deal with the increase of land prices when transferring land rights. Marketing measures for transferring the land ownership are still evolving but will play an increasing role in the government's approach to better utilize uncultivated land.

Part Five examines the situation of migrant workers who return to their rural homelands and start farming again or act as entrepreneurs providing job opportunities, while Part Six investigates necessary preconditions for talented and professional young citizens to move to the countryside.

Finally, Part Seven provides insights into experiences made with land transfer in Jiangsu province and concludes with suggestions on how to reassure farmers by enhancing their rights within the land transfer process.

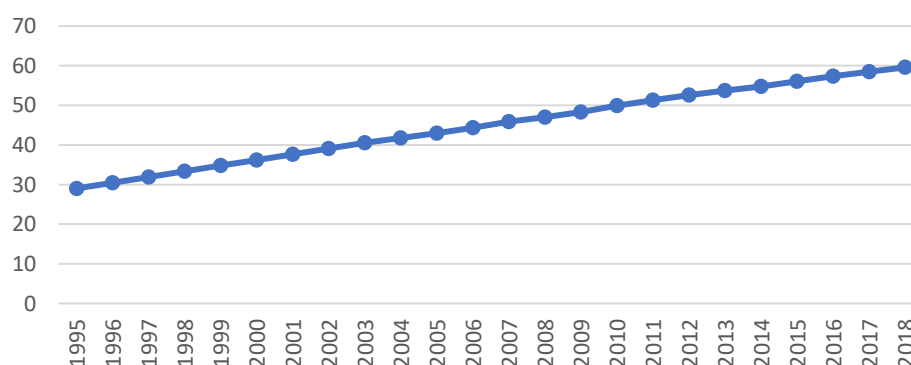
Part One: The Abandonment of Arable Land

As China has a large population and relatively little arable land, grain production and supply have been insufficient during the past historical period. Since the founding of New China, the Chinese government has attached great importance to grain production. In order to protect the limited arable land resources, the Chinese government has formulated and implemented the strictest arable land protection system in the world and has adopted the land protection policies of “dynamic balance of total arable land” and “permanent basic farmland”. Moreover, China has also implemented stimulus policies such as abolishing agricultural taxes and subsidizing grain production to promote agricultural production and grain security. However, the arable land has not been properly exploited even under these favourable conditions in recent years. Although official data on “arable land abandonment” is not available in China, the scholar has done a lot of research on the abandonment of arable land due to urbanisation, location and other factors.

1. Factors Related to Urbanisation and Industrialisation

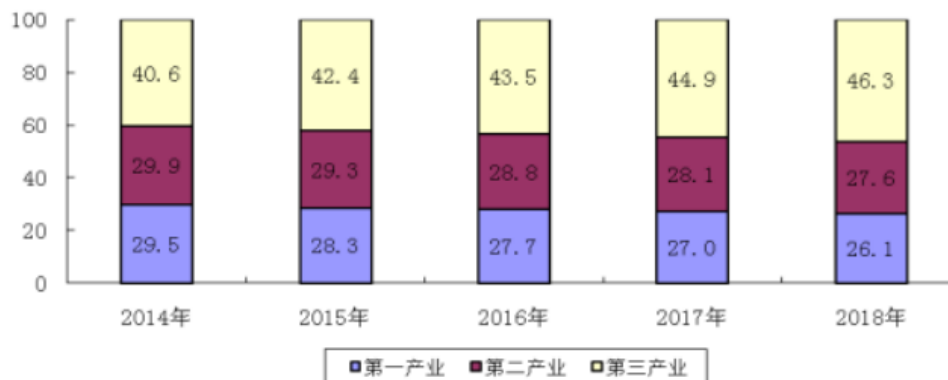
In recent years, the steady growth of Chinese grain production has guaranteed national food security. However, many major grain-producing regions are facing difficulties including the comparatively low efficiency of agricultural production, the lack of farming labour force, the sometimes poor condition of transferred farmland and farmers’ conservative ideas of farmland transfer. The situation of an increase in grain production without an increase in income eventually results in the abandonment of farmland.

Since China's reform and opening and in line with the rapid development of industrialisation and urbanisation, some scholars have predicted that China will have 310 million new urban residents by 2030 and the rate of urbanisation will reach 70 %. The total urban population in China will exceed one billion by then. Moreover, the decrease of agricultural labour force leads to a demographic shift in rural areas. The average age of China's agricultural labour force has exceeded 45 years since 2010, indicating that China has entered the ageing era of agricultural labour force. The survey of households in 29 provinces and 262 counties and cities, which is conducted by the Chinese Family Finance Survey and Research Center of the Southwestern University of Finance and Economics, shows that 13.5 % and 15 % of agricultural land was uncultivated in 2011 and 2013, respectively. With the deepening of industrialisation and urbanisation in China, the further departure of rural labour force and the rapid ageing of the remaining agricultural labour force are likely to aggravate the scope and extent of the abandonment of arable land.



Graph 1: Urbanisation rate of permanent population in China (unit: %)
(Source: China Economic Net)

Some surveys indicate that East China, where the abandonment of arable land is most serious, is an important area of China's economic development. Its reduction of cultivated land and increase of construction land is far beyond the average level in China. There is the saying “one square inch of land means one square inch of gold”. The protection of arable land in this area increasingly arouses researchers’ attention.



Graph 2: Industrial employment of Chinese working population during the recent five years (unit: %)

(Source: Ministry of Human Resources and Social Security of PRC)

Purple: Primary sector (Raw Materials)

Burgundy: Secondary sector (Manufacturing)

Yellow: Tertiary Sector (Services)

2. Factors Related to Natural Conditions

In order to cope with the substantial reduction of the surplus of agricultural labour force and the increased labour costs, Chinese agricultural production methods have developed rapidly towards mechanization in agriculture, thus avoiding the marginalisation of arable land use since 2003. However, the unfavourable conditions of mountainous and hilly areas restrict the utilization of agricultural machinery. Along with the departure and ageing of agricultural labour force, the poor-quality cultivated land, such as farmland on a slope, is constantly marginalised and eventually abandoned. From 2002 to 2013, the proportion of abandoned arable land in China increased from 0.32 % to 5.72 %, which may not avoid the phenomenon of spatial contraction of cultivated land caused by “forest transformation”. From a regional perspective, the proportion of abandoned arable land of the total cultivated land area in the East, the Middle and the West is 0.81 %, 6.91 % and 7.65 %, respectively.

Since 2017, the Agricultural Economy and Development Research Group of the Chinese Academy of Agricultural Sciences has conducted field investigations in the provinces of Hunan, Henan, Anhui, Guangxi, Hainan and Jiangxi and found that farmland is abandoned to a certain extent in rural areas, applying both to scattered farmers and important grain producers. For example, almost 25 % of the arable land was abandoned in 2017 in the rural areas of Pingxiang, Jiangxi province.

According to the investigation of the local agricultural department, 178,800 mu cultivated land have been abandoned for more than two years in Hainan province, including 48,800 mu in Danzhou, 28,400 mu in Haikou, 25,600 mu in Wenchang, 24,000 mu in Tunchang, 18,600 mu in Chengmai, 15,200 mu in Dongfang and 18,200 mu in Changjiang.

Nearly 10 % of the arable land in Hengxian, a major grain-producing county in Guangxi, was abandoned. Seasonal abandonment is the main form of abandonment. The abandonment of dry land and mountainous slope land is more common than that of paddy field and low-land areas. Since 2000, the abandonment of cultivated land in mountainous areas such as Chongqing, Ningxia, Hubei and Jiangxi provinces has become more and more obvious. The area of abandoned arable land is very wide, involving 21 provinces, mainly in mountainous and hilly areas.

Diagram 1: Distribution of arable land in China (unit: ten thousand mu)

Year	Total	Paddy fields	Irrigated land	Dry land
2009	203076.8	49488.7	42125.1	111463.1
2010	202902.4	49375.3	42048.1	111479.1
2011	202857.8	49269.8	42041.6	111546.5
2012	202737.7	49165.5	42000.6	111571.6
2013	202747.0	50119.7	41989.2	110638.1
2014	202586.0	49985.1	41973.0	110627.9
2015	202498.0	49919.1	42007.6	110571.3
2016	202381.4	49849.4	42297.5	110234.6

Source: 2016 China Land and Resources Bulletin by the Ministry of Land and Resources of PRC

Mountainous and hilly areas and plateaus in China make up a major part, accounting for more than two thirds of the country's area, and the proportion of farmland on slopes is also large. The second national land survey shows that the area of cultivated land on slopes of over 6 degrees accounts for 27 % of the total cultivated land in China. Farmland on slopes is not conducive to mechanization and is at high risk to be marginalised and abandoned in the process of rapid urbanisation and industrialisation. If the marginalisation and abandonment of arable land in mountainous areas becomes more serious, this will have a far-reaching impact on the social economy and ecological environment of the mountainous rural areas of China and even the whole country.



Farmers spread cattle manure on their farmland

According to the statistics of the former Ministry of Land and Resources, up to 2 million hectares of arable land are abandoned every year in China. Many farmers in the main wheat and rice producing areas of our country do not grow any crops - not even grain crops in summer. In order to guarantee basic yields, they only plant rice or corn in autumn. Therefore, without land transfer, it is difficult to have the limited arable land fully cultivated.

Part Two: The Status Quo of the Transfer System of Land Contracting and Management Right in China

At present, there is no specific law for a rural land transfer in China. The main relevant laws and policies include “Measures for the Administration of the Transfer of Rural Land Contract Management Right”, “Property Law” and “Land Administration Law”, among which “Measures for the Administration of the Transfer of Rural Land Contract Management Right” specify the actual participants, modes, contracts and the management of land transfer.

The occurrence of the new problems of land transfer under the new situation leads to many problems in the laws and regulations of land transfer, such as the imperfect transfer legislation system, the lack of operability of legal provisions, the unreasonable legal provisions of the transfer mode, the unreasonable restrictions on the main qualification and constituent elements of land transfer. The provisions for the legal nature of the equity participation are not clear.

With the gradual strengthening of the government's guidance and service on rural land transfer, the rural land transfer tends to be more standardised, which is mainly embodied in the following three aspects:

Firstly, the spontaneous transfer among owners and farmers in the past is replaced by a combination of the government and market-oriented guidance and the spontaneous transfer;

Secondly, the unpaid cultivation in the past is changed into the paid transfer with market orientation;

Thirdly, the non-standard transfer based on oral agreements is changed into the standard transfer based on written agreements. At the same time, with an accelerated land transfer process and an increasing scale, the system for regulating land transfers is innovated:

1. Establishing a Trading Market for Farmland Property Rights

China's first national guidance document on the development of the transfer market for rural property rights was issued in 2014. The General Office of the State Council issued “Opinions on Guiding the Healthy Development of the Rural Property Rights Transfer Market” on 22nd January, 2015, which calls for guiding the healthy development of the rural property rights transfer market and provides rules and regulations for the transaction of rural land transfer. Furthermore, provinces and municipalities have issued corresponding local implementation opinions. For example, without changing land ownership, contractual rights or farmland nature, Zaozhuang City, Shandong province, has found a new way of rural land reform through issuing land use property rights certificates to farmers, establishing a land property rights trading market and promoting rural cooperatives.

2. Regulating the Circulation Behaviour

For example, after Rural Land Contracting Law and Rules for the Transfer of Rural Land Contracting and Management Rights are promulgated and implemented, Henan province formulated and issued “Rules for the Circulation of Rural Land Contracting and Management

Rights” in order to regulate the transfer of rural land by standardising the aspects of circulation main body, transfer mode and transfer procedures. Meanwhile, different contract sample texts such as transfer, subcontract, lease and exchange texts are provided to farmers in the whole province. Some rights, obligations and liabilities that apply to both contracting parties are clarified.

3. Improvement of the Arbitration and Mediation Mechanism of Land Transfer Disputes

The “Law of the People's Republic of China on Mediation and Arbitration of Rural Land Contract Disputes”, which came into effect in January 2010, provides a powerful legal tool for the settlement and resolution of rural land transfer disputes. At the same time, local governments at all levels have established arbitration agencies for land contractual management disputes, formulated arbitration management methods and implementation plans, which form a relatively sound arbitration system, and achieved remarkable results in the resolution of land transfer disputes during recent years.

Part Three: The Evaluation of Rural Land Value

In China after the separation of ownership, contractual rights and management rights of farmland, the transfer of farmland is only a transfer of the management rights to other economic entities. The contractual rights to rural land cannot be transferred, so the transfer of the right to use agricultural land is manifested in the transfer of the management rights. At present, China lacks national evaluation criteria or technical guidelines for pricing land contractual management rights. The evaluation criteria for rural contractual land management rights are mainly based on two national standards, namely, “Regulations for Classification and Gradation of Agricultural Land” and “Rules for Agricultural Land Valuation” promulgated by the former Ministry of Land and Resources. The factors affecting the price of land transfer are generally as follows:

1. Location factors. For example, the transfer price of rural land in Shanghai must be higher than that in Guangxi.
2. Contract term. The term of land transfer is determined by the remaining contract term. Generally, the longer the remaining contract term, the higher the land value.
3. Natural conditions. For example, the price of land transfer in plain area is higher than that in hilly area. Furthermore, the price of land with fertile soil is higher than the land price for saline-alkali soil.

There are also other factors that can affect the price of different land transfers in the same area, such as traffic conditions, hydropower facilities, market conditions and so on.

Part Four: Handling with the Rise of the Land Transfer Price

China's land transfer market has been basically established in recent years. However, as scattered land property rights increase the cost of consultation and supervision of land integration, the marketization of land transfer is still not mature.

The rise of land transfer prices will have a significant impact on agricultural production decisions of the households affected by land transfer. Facing a rising price of land transfer, the

land transfer households will adjust their farming system by reducing the proportion of food crops, while increasing the proportion of planted cash crop. At the same time, the land transfer households will also adjust crop varieties, which is reflected by a reduction of the cultivated common food crops and by an increased cultivation of high-quality food crops. In addition, the land transfer households will also optimize the input structure in agricultural production by reducing the use of labour force and increasing the use of machinery.

Most land transfer households with a certain scale are market-oriented and have a certain ability to avoid risks. Although in some areas high prices of land transfer have caused the abandonment of farms, it is not common. However, it should be noted that the increase of land transfer prices encourages land transferred households to reduce food crop cultivation and increase cash crop cultivation instead. When the cultivation proportion of food crops and cash crop reverses considerably, it may endanger China's food security.

Diagram 2 Plantation of cash crop and food crop in China from 2009 to 2018

Year	Food crop (thousand hectare)	Cash crop (thousand hectare)	Food crop/Cash crop
2009	463788.8	52343.51	8.86
2010	470272.85	52196.89	9.01
2011	477949.52	53940.97	8.86
2012	484968.1	54726.91	8.86
2013	491996.41	54817.2	8.98
2014	498327.92	54595.43	9.13
2015	505103.83	53777.27	9.39
2016	505016.65	52546.36	9.61
2017	499964.21	53026.54	9.43
2018	496563.44	53204.44	9.33

(source: China Economic Net)

Part Five: How Many Migrants are Interested in Returning to Their Land and Start Farming Again?

In August 2019, the 12th meeting of the 13th NPC Standing Committee examined the report offered by the Law Enforcement and Inspection Unit of the NPC Standing Committee on the implementation of the Employment Promotion Law. It was found that modern agriculture and rural tourism have developed rapidly, and the number of migrant workers and college graduates returning to the countryside has increased with an obvious trend towards returning to the countryside. There were 7.8 million people returning to the countryside to start their business in 2018.

Unlike the one-directional migration of migrant workers from rural to urban areas in the past, the trend of returning to the countryside has become a new phenomenon. Migrant workers returning to the countryside and entering the city have become two major characteristics of employment in China. On one hand, the report shows that migrant workers will continue to emigrate to cities. In 2018, the average urbanisation rate reached 59.58%, with a total number of migrant workers reaching 288 million. The urbanisation rate in our country is between 30% and 70%. Three million surplus agricultural labour force transfers to employment every year. There are still many farmers arriving in the cities.

On the other hand, the trend of returning to the countryside becomes obvious. The development of modern agriculture and rural tourism has led to an increase in the number of migrant workers and college graduates returning to the countryside. In the context of new urbanisation, a pilot study was conducted in Yanshan County, Yunnan province. Migrant workers were supported to return home and start businesses resulting in 1,708 returning people who have set up 1349 market entities generating more than 4,400 new jobs. In Guizhou province 120,000 rural employment and 186 entrepreneurship sites for migrant workers were set up by more than 8,000 science and technology commissioners in Beijing, employing more than 220,000 people.

Part Six: What are The Preconditions for Young Agricultural Talents to Move or Re-move to Rural Areas?

Whether young agricultural talents choose to return to rural areas for farming mainly depends on the relevant supporting measures for rural areas to absorb these agricultural talents.

1. The individual worker's decision to work in non-agricultural employment or to engage in agricultural production is inevitably driven by their own interests. At present, the differences of labour remuneration between urban and rural areas is the main driving force for young people to choose non-agricultural employment. If the agricultural department wants to retain enough agricultural labour force, it must take measures to improve the remuneration of agricultural labour and effectively increase farmers' income.

2. Reforming and improving the rural land system, promoting the modernisation transformation of agricultural production and increasing the efficiency of agricultural production are the key to raise agricultural income. In 2013, the Central Committee Document proposed that we should encourage and support the transfer of contracted land to large professional households, family farms and farmers' cooperatives and develop various forms of medium-scale land management. This is a promising attempt of the government to prevent the movement of labour and land abandonment. To achieve this goal, we must improve the laws and regulations of land transfer as soon as possible, standardize and improve its procedures, and eliminate the obstacles in its process.

3. Meanwhile, a favourable rural community environment and social policies are conducive to stimulate young people's awareness of farming. To enhance the attractiveness of rural areas, it is necessary to pay attention to the improvement of welfare security and infrastructure construction and create a liveable rural environment. Rural construction cannot be separated from the country's encouragement and support. We must further improve rural medical security and welfare security policies to enable more farmers to benefit from it, and thus enhance the confidence of the new rural generation in agriculture and rural areas. In

addition, rural communities should actively improve the local living conditions, e.g. by repairing roads, hydropower, greening and so on, while also striving to improve the quality of community services to meet the needs of villagers.

Part Seven: The Experience of Jiangsu Province on Land Transfer

In recent years, Jiangsu Provincial Government has attached great importance to the transfer of rural land and issued a series of policy documents in supporting and standardizing the land transfer process, especially with regard to implementing the separation of ownership, contractual rights, and management rights of farmland. Relevant municipalities, counties and districts are also implementing supporting policies and measures to encourage the medium-scale rural land transfer, such as the “land bank” system in Sihong County, Suqian City, and the “pre-circulation” system in Haiyan County, Nantong City, which have achieved very good results.

Here, the market-oriented land management transfer leads to beneficial outcomes. The survey finds that all parts of Jiangsu province are actively exploring and practicing innovative models of land management and transfer. These models reflect the reach and grasp of the market. How to plant and what to plant are determined by the market guidance. For example, Shiji Town, Suqian City, and Tiefu Town, Huai’an City, seized the opportunity that the lobster consumption market continues to expand, and organic rice is popular. They vigorously developed a paddy field farming industry with an area of 25,000 Mu and 30,000 mu, respectively. Through large-scale households subcontracting, lobster farming income is 3 to 4 times of the traditional two-season income of rice and wheat cultivation. After the brand effect of eco-rice is achieved the income will increase considerably.



Crayfish Promotes Big Industry

It is found that agricultural enterprises, major professional households, family farms, agricultural cooperatives, agricultural social service organisations and other new types of agricultural operators in Jiangsu province are developing more and more strongly and have become the main force to promote the modernisation of agriculture. At the same time, with many agricultural enterprises with high management level and strong economic background engaged in agricultural development, agricultural infrastructure investment is also increasing supported by the industrial sector and governmental subsidy policies at all levels.

With the orderly transfer of rural labour force, farmers' income continues to grow. Farmers' income sources are also gradually diversified, including income from land using right transfer, annual land rent or dividend and labour remuneration from large-scale operating activities, which, to a large extent, ensure a sustainable and stable growth of farmers' income.

Conclusion

Firstly, we can reassure farmers by confirming their legal rights. We should issue certificates for confirming rural land rights and give farmers' land contractual rights a legal status. Only the management right can be transferred, and its contractual rights will remain unchanged for a long time. The benefits from this will also remain unchanged for a long time.

Secondly, we should develop market-oriented voluntary transfer system. We should actively guide the exploration and establishment of an expert demonstration mechanism at the municipal and county levels that integrates the management main body, management mode, investment mechanism, market prospects and safeguard mechanism, with a focus on in-depth analysis and accurate measurement of market benefits, so as to guide circulation with tangible earnings.

Thirdly, we should enhance service management. We must ensure that the transfer activities go through the town-level property rights trading centre to guarantee effective supervision. For farmers who are unwilling to transfer, we can flexibly enable other members of the organization to contract the land or have the transfer on a collective basis, to promote the large-scale and intensive management of land.

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