



A novel framework for rural homestead land transfer under collective ownership in China



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ABSTRACT

Rapid urbanization in China has triggered the mass migration of rural populations to cities, resulting in a shortage of urban land and inefficient use of rural homestead land (RHL). To address these issues, there is increasing interest in allowing for RHL transfer. Although several transfer modes have been implemented in pilot areas, the long-term protection of farmers' interests has been largely neglected. One-off transfer compensation and forced transfer often occur in practice, and there is no collective profit sharing. This paper explores the advantages and disadvantages of the extant transfer modes using comparative analysis. We propose a novel RHL transfer system under collective ownership, and three highly related key aspects add layers of protection: the separation of three sets of rights (ownership, tenure, and membership), the separation of land value from the value of accessory buildings and durable goods, and profit sharing among the collective members. The advantages of the proposal are summarized as follows: (1) it provides long-term protection for farmers' interests based on membership in the collective; (2) endows the collective with actual rights of self-governance and collective autonomy; and (3) decreases institutional costs and reform risks and improves land-use efficiency of RHL. The implications of the proposal regarding topics of concern are also discussed. This study offers a clear direction for RHL transfer and increases the understanding of the essence of the collective ownership of RHL and relationships among farmers, collectives, and governments during RHL transfer.

1. Introduction

Land transfer is an essential strategy to facilitate land marketization and agricultural modernization and is widespread in many countries (Creighton et al., 2016; Gebeyehu, 2013; George, 2013; Linkous, 2016; Pilosoff, 2016; Pujo and Laurens, 2014; Ye, 2015). Land transfer is legal and brisk in urban China, and the policies for farmland transfer have shifted from strictly prohibiting any open-market transfer to piloting strategies and full implementation after the innovation of the Household Responsibility System (Shao et al., 2016; Ye, 2015; Zhong et al., 2008). In 2014, the central government proposed the reform of “three right (ownership, contractual rights, and operation rights) separation” to facilitate farmland transfer, which has been implemented in many rural areas (Wang and Zhang, 2017). The total transferrable area of arable land was 29.8 million ha at the end of 2015, accounting for 33.3% of the total area of household arable land (China's Ministry of Agriculture, 2016). However, rural homestead land (RHL) transfer is still severely restricted in China. Fully transferrable RHL for all farmers

lacks efficient market mechanisms and policy support.

China is a typical society with an urban-rural binary structure caused by the restrictions of the household registration system (Wang et al., 2015; Wu et al., 2016). The land-use institution has adopted separate management rules for the cities and countryside, accordingly (Ho and Lin, 2003). Urban land is state-owned. Rural land is collective-owned (Fig. 1). Rural land is generally classified into three types: agricultural land, collective construction land, and unutilized land. Rural collective construction land is further divided into commercial land, RHL, and public land. RHL accounts for the largest area proportion of rural collective construction land, plays a key role in farmers' daily lives (Yang et al., 2016; Zhou et al., 2013). A piece of RHL provides a living space for one extended family and comprises a farmhouse and the adjoining land. In China, the average area of a household's RHL is approximately 540 m² (Feng and Yang, 2015).

The administration of a rural collective is generally formed at the village level. Each farmer in the village with a rural household registration is regarded as a collective member. The collective allocates

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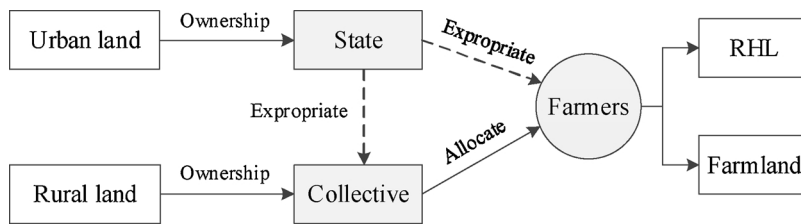


Fig. 1. Land system in China.

farmland and RHL to their members without charge and based on characteristics of the household unit. Farmers engage in agricultural production on farmland to earn a living and build their homes on the RHL. Each rural household can only hold one parcel of RHL, according to the national homestead institution. The household can use the allocated collective land for a limited duration; notably, this restriction is unconstrained in practice. The state has the right to expropriate collective-owned land for urban construction and development. Farmers are obliged by law to abandon their RHL if expropriated by the governments. Although democratic decision-making has gradually formalized in some rural collectives, the current RHL system has faults, including limited disposal rights to farmers that result in inefficient land use.

Complete land rights, including possession, use, usufruct, and disposal, are endowed to urban state-owned land; however, the disposal rights for RHL are limited by law. The ownership of RHL belongs to the collective under the Constitution and Land Administration Law, which expressly prohibits RHL transfer outside of the collective, and the corresponding mortgages are banned by the property laws (Chen, 2014a). The transfer of RHL can occur only by land expropriation by the government, placing local governments in a monopoly position when disposing of the RHL. Governments expropriate rural collective land from farmers at a low price and transfer it to individuals or institutions at artificially high prices through bidding (*zhaobiao*) and auctions (*paimai*). The market value of rural land is greatly devalued because of the land market monopoly of local governments (Dang et al., 2016; Ho and Lin, 2003). The land price between two adjacent parcels can be considerably different (*tongdi bu tongjia*), despite the type of ownership being the only difference. This situation creates substantial differences in land profits. The farmers receive less than 10% of the increased revenue. The local governments and village collectives realize 60% to 70% and 25% to 30% of the increased revenue, respectively (Tang and Tan, 2013). Local governments rely on land finance and farmers sacrifice their long-term interests to sustain China's urban-biased development (Zhu and Roy, 2007). Farmers whose interests are diminished become dissatisfied with the land expropriation policy.

Since 1978, China has achieved remarkable success in economic development (World Bank et al., 2014), but it is difficult to ignore that China must manage its dilemma of flourishing cities and stagnant villages (Liu and Li, 2017; Tian et al., 2018, 2016). Accelerated urbanization has triggered a rural-to-urban transformation (Bai et al., 2014; Chen et al., 2014). The urban population increased from 172 million in 1978 to 792 million in 2016. The rural population, accordingly, decreased from 790 million to 590 million (National Bureau of Statistics of China, 2017). Notably, the RHL area increased following the decreases in rural population, instead of resulting in the expected land-use optimization (Jiang et al., 2016; Long et al., 2016). The area of villages increased from 11.40 million ha to 13.92 million ha between 1990 and 2016 (Ministry of Housing and Urban-Rural Development of China, 2016). Large populations of rural workers (245 million in 2016) are living and working in cities, and are regarded in the official statistics as an urbanized population without urban household registration. That is they are a semi-urbanized population without the corresponding rights regarding education, healthcare, and social security (Wang et al., 2015; Wu et al., 2016). Their rural homesteads are uninhabited or inefficiently utilized without property and disposal rights, resulting in

many empty houses (Liu et al., 2013; Long et al., 2012). The total area of idle RHL is estimated at 20%. Additionally, without an effective quitting mechanism, the problem of “one household with multiple homesteads” (*yihu duozhai*) is widespread, and the number of rural households has increased rapidly because of their miniaturization since the 1980s (Long et al., 2012). This increase exacerbates the inefficiency of RHL. Farmers cannot sell their homesteads to potential buyers, such as investors or migrants under the land institutions' current restrictions. Occupying the land without use may be their only option and is the main cause of inefficient use in RHL.

An increasing number of farmers cannot to earn a living in traditional farming because of rapid industrialization and urban upgrading. Although farmers want expand their agricultural production or engage in nonagricultural production, they incur hardships when converting their RHL assets into cash. The disparities regarding rights (*tongdi bu tongquan*) related to urban and rural land and market competition have enlarged the income gap between urban and rural residents during China's economic transformation process. Although the rural per capita income has increased 92-fold between 1978 and 2016, the urban-rural income gap has been widening since 1987 (Fig. 2). Average urban incomes were 2.72 times rural incomes in 2016, and the actual gap is worse because urban residents enjoy better social security and welfare benefits. Land expropriation, in this context, has become a focus of social unrest. Disputes over land expropriation account for greater than 65% of the mass incidents in rural China (Fewsmith, 2009). In summary, the time to facilitate RHL transfer by developing a system to endow equal obligations and rights for farmers is now.

To revitalize rural collective construction land and convey additional free disposal rights to farmers in their RHLs, China's central government proposed the Decision on Major Issues Concerning Comprehensively Deepening Reform in 2013 (Wang, 2013; Yuen, 2014). One of its major reforms was clearly defining the housing property rights of farmers and exploring effective methods of RHL system reform. New rural land reform conflicts caused by the extant land-use regulations directly affect the interests of 600 million farmers. The central government has repeatedly emphasized that any reform should be implemented carefully and steadily. Therefore, a principal issue is how to protect farmers' interests during the process of implementing the new rural land reform.

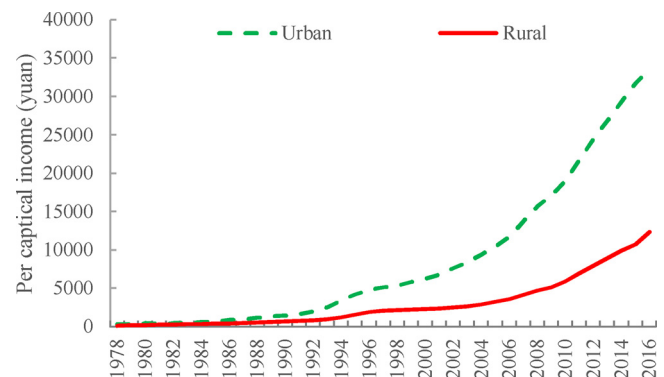


Fig. 2. Rural-urban per capita income between 1978 and 2016 (National Bureau of Statistics of China, 2017).

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