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RESEARCH ARTICLE (PEER-REVIEWED)

## Seventy years of changes in China's rural land system: Review, enlightenment and outlook

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### ABSTRACT

The paper reviews the five stages of reforms to China's rural land system since the establishment of the People's Republic of China, including the impact of rural land policies and legislation. The review enables a number of observations which could be useful when designing future rural land systems. In summary, reforms of the rural land usage system should be appropriate to the economic base, and the will of farmers should be respected. The review also indicates that, in the immediate future, the systems of collective farmer ownership of land will not change and the land use pattern in China will continue to be diverse. At the same time, China is likely to become more focused on the sustainable and ecological use of land, with land rights and the interests of farmers and farmer collectives better safeguarded.

### Keywords

**China's rural land system; collective ownership; land rights of farmers; rural policy; rural legislation**

## Introduction

Rural land issues in China are significantly impacted by the political regime, the economic system and legal institutions. China is a big country and has a large agricultural population. Ensuring good management of the needs of farmers and agriculture production in general is important for China's ongoing social development. In 2018 China celebrated the 40<sup>th</sup> anniversary of its policy of *Reform and Opening-Up*, which significantly impacted China's policies and legislation concerning rural land. This article discusses the evolutionary process of China's rural land policy and legislation from the establishment of the People's Republic of China (PRC) to the *Reform and Opening-Up* period and, finally, to the present. It concludes with observations about lessons learned over the past 70 years and how these lessons might be applied to future decisions concerning the management of rural lands.

## Legal development: The five phases of China's land system

Reforms of China's rural land system can be divided into five phases since the establishment of the PRC in 1949, from gifting land to farmers to own, through to the establishment of communes and today's system of giving farmers contractual rights to their land.

### Land Reform Movement (1949-1952)

Once having established themselves as the ruling authority in China, the Communist Party of China (CPC) enacted a policy of 'land to the tiller' in rural areas. The policy effectively removed rights from landlords, who had traditionally held vast tracts of land, and distributed land to the farmers, who had traditionally farmed but not owned the land they cultivated. The period in which this 'gifting' of the land occurred is called the *Land Reform Movement* period.

In order to guarantee the course of land reform, related legislation was implemented. Firstly, the Common Programme of the Chinese People's Political Consultative Conference, which, at the time, held the equivalent status of a constitutional entity, abolished the right to land ownership by landlords and gave the right of land ownership to individual farmers.

Secondly, the *Land Reform Act (June 1950)* ('*LRA 1950*') was promulgated, giving farmers the right to own the land. Article 30 of *LRA 1950* 'recognizes the right of management, buying and selling, renting out of their (farmers) land to any landowner'. The Act, in effect, respected the will of farmers and established farmers' associations to implement the land reform. Article 29 of *LRA 1950* stipulates: 'the rural farmers' congresses, the farmers' congresses and their elected committees of farmers' associations, the farmers' congresses at the district, county and provincial levels, and their elected committees of farmers' associations shall be the legitimate executive organs for the reform of the land system'. Nearly 300 million landless farmers were allocated 40.6 million hectares of land and were no longer required to make an annual rental payment to landlords, which had amounted to approximately 30 million tons of grain.<sup>1</sup>

During this reform period it became evident that productivity of farms did not rise significantly because many farmer households lacked simple production tools. In 1951 the central committee of CPC agreed upon *Resolution of Agriculture Mutual-aid and Co-operative (Draft)*, thus establishing cooperative farmer associations to provide the basis for mutual-aid teams that enabled sharing of the means of agricultural production. The *Resolution* was given further strengthened in the spring of 1953 as a result of the outcomes of the land reforms, which resulted in farmers associations being replaced with district people's congresses, beginning the process of the second phase of the land reform system.

### From farmer ownership to collective ownership (1953-1978)

By 1954, 58.3 per cent of all farmer households had joined a mutual-aid team.<sup>2</sup> The purpose of the team was to achieve mutual cooperation between members in the production process.

<sup>1</sup> New China Archives, *Land Reform Movement in New China*, <[http://www.gov.cn/test/2009-08/20/content\\_1397342.htm](http://www.gov.cn/test/2009-08/20/content_1397342.htm)>.

<sup>2</sup> An Zhenyuan, 'Review of China's Collectivization Movement (1949-1978)' (1991) 3 *Journal of Qinghai Normal University* (Social Science edition) 34.

Towards the end of 1955, the National People's Congress (NPC) of the PRC produced the *Draft Agricultural Producer Cooperatives Standard By-laws (1955)*. This draft promoted the establishment of 'junior communes'. The communes were a further enhancement of farmer cooperative networks. Because mutual aid and cooperation met the objective needs of farmers at the level of social productivity at that time, it was very easy for the government to promote it. The philosophy underpinning the draft was semi-socialist in nature and promoted production from agricultural land based on collective effort. In effect, the draft proposed that farmers become members of a junior commune for a given period but retain ownership of their land and the means of production.

In July 1954, in Henan Province, 27 junior communes were amalgamated into a senior commune.

In 1955, the 7<sup>th</sup> Central Committee of the CPC held its 6<sup>th</sup> Plenary Session in Beijing and adopted *Resolution on Agricultural Cooperativeness*, which called for the popularisation of primary agricultural production cooperation in most parts of the country by the spring of 1958 and the realisation of semi-socialist cooperation. The *Resolution* encouraged a rapid development of the agricultural cooperative system; within three months, the agricultural cooperative system was basically realised in the whole country.

On 30 June 1956, the NPC promulgated the *Senior Agricultural Producer Cooperatives Standard By-laws (1956)*, adopting and establishing the senior commune system. The by-law converted individually owned landholdings into collectives (senior communes), marking the birth of socialist public ownership of land in rural areas in China.

On 27 May 1958, the Political Bureau of the Central Committee of CPC held an enlarged meeting, affirming that the people's commune was the best form of organisation for the transition to communism, and made the *Resolution of the Central Committee of the Communist Party of China on the Establishment of People's Communes in Rural Areas*. With active government promotion, the number of people's communes grew rapidly. More than 740 000 senior communes were merged into 26 000 people's communes. By the end of 1958, 120 million farmer households – almost 99 per cent of all farmer households in China – had joined a people's commune.<sup>3</sup> In effect, people's 'communalisation' took shape in China predominantly as a result of CPC policy. From 1950 to 1958, when the population increased by 100 million people, China's grain output increased from 239.4 kg per capita to 299.5 kg per capita.<sup>4</sup>

### Rural land contractual system (1978-1985)

An acknowledged consequence of the collectivisation of farms was that 'each farmer obtained the same reward no matter how hard he or she worked; there is no reward difference between whole-hearted work and half-hearted work. It is a widespread phenomenon that many farmers contribute half-hearted work'.<sup>5</sup>

One scholar noted: 'Before the end of 1956, our country realised the full cooperation of the rural farmers. However, the policy of collectivisation has not carried out the promise of more productivity; the farmers' cattle and farm implements did not compensate. The agrarian reform was initially welcomed by farmers, but communalisation was not welcomed. The people's commune movement and the 'Great Leap Forward' had led to the production of successive declines.'<sup>6</sup>

The 'Great Leap Forward Movement' was a National Planning Commission policy to propel China into the modern world economy. At the beginning of June 1958, the National Planning Commission put forward the Key Points of the Second Five-Year Plan, which was aimed at surpassing the production of the United Kingdom in five years and catching up with the production of the United States in ten years. On 17 August 1958, the Political Bureau of the Central Committee of the CPC held a meeting and decided that a key first method for achieving the Great Leap Forward was to increase China's production of iron. The aim was to produce 10.7 million tons of steel annually. The whole population was called upon to be involved in making steel. In the countryside, farmers built small earthen stoves in fields and began to make steel, and much land was given over to the production of steel. In fact, farmers' main focus turned to the making steel, thus

<sup>3</sup> Luo Pinghan, *History of Rural People's Commune* (Fujian People's Publishing House, 2003).

<sup>4</sup> Overview of China's Grain Yield, Population and Per capita Grain Yield in the Past Years <[http://www.360doc.com/content/17/0407/23/642066\\_643747754.shtml](http://www.360doc.com/content/17/0407/23/642066_643747754.shtml)>.

<sup>5</sup> Mi Hua, 'The Communist Party of China and the Emotion Changes to Land for Farmer Farmers' (2007) 2 *Journal of Beijing Academy of Governance* 16. Before the implementation of the responsibility system, the collective economic system of 'equalitarianism' and 'big pot rice' was still practiced in the countryside. Farmers did not work hard, which became a common phenomenon at that time.

<sup>6</sup> Yang Feng, 'On the Land Policy of the Communist Party of China and its Changes' (1999) 1(21) *Journal of Hanshan Normal University*.

seriously affecting agricultural production. By the winter of 1960, the central Committee Party realised the damaging effects of the 'Great Leap Forward Movement' and discontinued it.<sup>7</sup>

In 1978, the 3<sup>rd</sup> Plenary Session of the 11<sup>th</sup> CPC Central Committee approved a resolution to implement a reform of the rural land system to an agricultural land contractual management system, changing the agricultural land use pattern from farmer collective use to farmer household use. It is widely believed that, in seeking a solution to the consequences of collectivisation, which had realised a decline in agricultural production, the CPC adopted an agricultural land contractual management reform that had been implemented in Xiaogang village, Anhui Province. Under the reform, farmer householders were given contractual rights and autonomy to manage their lands (usage rights), but not ownership.

## Rural land contractual system (1986-2018)

It was not until 1986 that the *General Principles of the Civil Law (1986)* ('GPCL 1986') was passed by the 1986 Fourth Session of the Sixth NPC to legalise the rural land contractual management system. The session also passed a constitutional amendment to approve the rural land contractual management institution.

Further legislation on rural land use followed *GPCL 1986*. At the 16<sup>th</sup> meeting of the Standing Committee of the 6<sup>th</sup> NPC on 25 June 1986, the *Land Management Law (1986)* was adopted. Article 12 of the law states that the right to contractual management of land is protected by law, but the exact content of the right to contractual management of land was not made clear. On 2 July 1993 *Agriculture Law (1993)* was enacted. Article 12 of the law states: 'Land, mountain, grassland, wasteland, tidal flat and water surface which (is) collectively owned or state owned but used by agricultural collective economic organisations may be contracted by individuals or collectives to engage in agricultural production'.

In 1998 an amendment to the *Land Management Law (1986)* formally accepted the concept of rural land household contractual management rights, an issue the law had not been clear about before. In 2002 the rural land contractual management system was specified in the *Rural Land Contract Law (2002)* ('RLCL 2002'). The Act clarifies who the parties<sup>8</sup> are to the rural land contract, as well as the rights and obligations of the parties, the transfer of rights to the contracted land, and how disputes are to be settled. For example, according to article 13 of *RLCL 2002*, the contracting party has the right to enter into contracts regarding use of rural land either owned by the collective to which the party belongs or owned by the state but used by the collective according to law. According to article 14, the contracting party is under an obligation to respect the right of the contractor and refrain from illegally modifying and revoking the contract. Correspondingly, according to article 16, the contractor shall enjoy the right to use the contracted land to reap yields and make decisions regarding arrangements for production, operation and disposal of the products. Article 17 states that the contractor is obliged to keep and use the land for agricultural purposes and refrain from using it for non-agricultural development.

On 16 March 2007, the *Property Law of the PRC (2007)*, which was adopted at the 5<sup>th</sup> Session of the 10<sup>th</sup> NPC, defined the land contractual management right as usufruct. This was an unprecedented recognition of farmers' land rights in China.

During this phase of rural land management in China, legislation concerning the rural land contract system was built step by step on the basis of policy implementation. This reflected the cautious and serious approach of the NPC toward rural land legislation. The legal subject status of rural household contractors was confirmed by *GPCL 1986*, *Agriculture Law (1993)* and *RLCL 2002*.

## Review insights

The above review of the history of changes to China's management of rural land provides several insights into how rural lands should be managed in China.

<sup>7</sup> The History of the People Republic of China, *The 'Great Leap Forward'* <[http://www.hprc.org.cn/gsgl/dsnb/zdsj/200908/t20090821\\_28359.html](http://www.hprc.org.cn/gsgl/dsnb/zdsj/200908/t20090821_28359.html)>.

<sup>8</sup> The parties here refer to the party giving out the contracts and the contractor of the land contractual management right. The former usually refers to the farmers' collective, and the latter usually refers to the farmer households belonging to the farmers' collective.

## Appropriateness to the economic base

The history of China's land reforms indicates that only rural land systems and policies that are compatible with the needs of farmers' incomes and economic development should be promoted. During the Land Reform Movement period, the *LRA* (1950) gave farmers the right to land, which led to an increase in agricultural production.

The mutual-aid teams fitted nicely with the needs of farmers at the time of their introduction, helping farmers to increase their productivity. Such a system was, therefore, welcomed and supported by farmers; however, although the ideas and theoretical design of 'collective land ownership, collective management' were in line with the laws and policies of the time, the outcomes were not satisfactory. The failure of the system could be attributed mainly to the reforms being divorced from the reality of rural productivity at that time<sup>9</sup>, when there was a shortage of modern agricultural machinery. The rural land contract management system, however, was compatible with the level of education and technology in use by farmers and prompted the development of the rural economy. Research shows that: 'under different land ownership structures, the input of the factors of production will differ, leading to variation in agricultural outputs'.<sup>10</sup> When farmers own their land, cooperative or moderately unified management is a relatively good system, because under such a system the input of various factors of production can be augmented, increasing the utilisation rate of land and labour.

## Respecting the will of farmers

Farmers are the users of agriculture land and thus the most important stakeholders with relation to agricultural land. Therefore, the priority should be to respect their will. *LRA* (1950) reflected the farmers' will and land reform was quickly completed, resulting in a rapid recovery of agricultural productivity after the ravages of China's civil war. However, the collectivisation of rural land violated the will of farmers: 'The Great Leap Forward and the people's commune deprived the farmers of all land rights, which demoralised the enthusiasm of the masses, then caused social development setbacks'.<sup>11</sup> *RLCL 2002* affirmed the will and interests of the farmers and rural productivity again rose.

## Protecting rural contracts

Some scholars believe that the entities that should have contractual rights to land are those who manage the land.<sup>12</sup> They believe that, when considering international norms, farmer households should be the holders of land contracts because of their relationship with the land.<sup>13</sup> Du Runsheng noted: 'Family business, due to the ties of blood and the formation of long-term coexistence, and interdependence with the land, can obtain the biggest savings in transaction costs from their operation. This characteristic determines that they are the most suitable entity for managing agriculture'.<sup>14</sup> The economics of agriculture are highly dependent upon many factors: the turn of seasons and risks posed by climate change, and other often unpredictable natural crises. Because of these contingencies, the need for labour and income is not always the same. Family members can be flexible: they reduce institutional loss as well as share benefits and risks. Importantly, China's culture is based on an understanding that the family is the cell of society. Thus, making farmer households the legal bodies responsible for managing rural resources would aid in the implementation of legislation.

Given these features of agricultural production and social norms, it would be advisable not to change the current legal subject status of the rural contracted operation households. This was also the conclusion reached at the 3<sup>rd</sup> Plenary Session of the 17<sup>th</sup> CPC Central Committee, when members agreed to promote the reform and development of rural areas by recognising the important status of the farmer household.

<sup>9</sup> Ma Liguang and Feng Jikang, 'Rural Land Reform: Historical Changes and Logical Enlightenment' (1999) 1 *Xuzhou Normal University Journal* 14.

<sup>10</sup> Huang Shao'an, Sun Shengmin and Gong Mingbo, 'The Impact of Land Ownership Structure on Agricultural Economic Growth: An Empirical Analysis on Agricultural Production Efficiency on the Chinese Mainland (1949–1978)' (2005) 3 *Social Sciences in China* 38.

<sup>11</sup> Yang Feng, above n 6.

<sup>12</sup> Wang Liming, 'A Discussion on Some Problems of the Contract Management Right of Rural Land' (2001) 6 *Journal of Renmin University of China* 78.

<sup>13</sup> Bai Chengming, 'Analysis on Internal Relationship of Farmer Households' (2003) 6 *Journal of Gansu Institute of Political Science and Law* 18.

<sup>14</sup> Du Runsheng. *Changes in China's Rural System* (Sichuan Publishing House, 2003).

The central government put forward that 'the rights and interests of farmers must be safeguarded, which is the starting point and foothold of all rural work'.

## Prospect for China's rural land system

Overall, there is evidence that China's rural land system has not been changing in line with developments in its economic base, social relationships and other factors. The following trends are evident.

### Tendency towards diversification of its legal base

China's urbanisation is increasing, with large numbers of farmers leaving the land and moving to urban areas. In addition, advances in agricultural science and technology are having a significant impact on the way farming is done.

In October 2017 the CPC central Committee and State Council<sup>15</sup> jointly issued *Opinions on Dividing the Right of the Rural Land Ownership Contract, Separating the Land Management Rights from the Land Contract Management Right*. This missive highlights that there are three 'rights' with respect to agricultural land: ownership of the land, contractual rights and management rights. The farmer collective has ownership rights; the farmer household has contractual rights to work the land; and the management right belongs to the land user, cooperatives comprising agricultural companies, or large agricultural households who directly use land for agricultural production.

On 29 December 2018, after the 7<sup>th</sup> meeting of the 13<sup>th</sup> Standing Committee of the NPC, *RLCL 2002* was revised to conform with farmers' wishes to have the option of either holding on to the contractual right to manage the land or to transferring the management of land. Before the amendment of *RLCL 2002*, land contractual management rights were not allowed to be mortgaged or invested as shares in companies and other enterprises. In addition, according to the provisions of the previous land contract law, the contractual relationship between farmers and farmers' collectives remained unchanged after farmers transferred their contractual management rights to other subjects. Article 36 of the revised *RLCL 2002* stipulates that the contractor may decide independently to transfer the right of land management to others by leasing (subcontracting), shareholding or other means according to law. This measure is regarded as a significant institutional innovation in rural reform because it clarifies the relationships between the three forms of land property rights and better protects the rights and interests of farmer collectives, contracted farmer households and business subjects.<sup>16</sup> Such protections are likely to promote the sustainable use of land resources and encourage greater use of modern, large-scale technology for farming that is likely to increase land productivity. Foreseeably, the main entities utilising farmland will become increasingly diverse as a result of a clarification of the three rights noted above, with the emergence of new types of agricultural producers and management bodies, such as cooperatives, agricultural professional managers and professional farmers.

### The identity of farmers will change

Reforms of the rural land system will significantly impact the identity of farmers. Currently, the social security system registers households as either urban or rural area dwellers and provides different benefits and restrictions according to the registration. For example, there is a significant gap between the social security benefits available to farmers and those available to urban residents in most parts of China: farmers do not have retirement benefits, and medical security is not available to urban residents; urban residents cannot purchase rural homes, but farmers can. With the trend towards increasing urbanisation, the existing household registration system is outdated and needs to be changed so that farmers can earn a living in cities, migrate freely and enjoy the same civil rights and interests as urban citizens. Such a change will enable farming to be turned into a 'profession' and allow China's urbanisation to progress smoothly.

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<sup>15</sup> The State Council of the People's Republic of China, namely the Central People's Government, is the executive organ of the highest organ of state power and the highest organ of state administration. The State Council is composed of the Premier, Vice-Premiers, State Councillors, Ministers of Ministries, Directors of Committees, Auditors-General and Secretary-General. The State Council implements the responsibility system of the Premier.

<sup>16</sup> Business subjects here refers to farmers' cooperatives, agricultural companies and agricultural professional managers who transfer land management rights from farmers for agricultural production purposes.

## Strengthening the trend towards land capitalisation

Land is no longer considered a simple carrier of production and operations for farmers but a dividend-sharing capital. Because the right to land management is currently invested in cooperatives and other subjects, some farmers have divested their interest in their land and become migrant workers, earning higher incomes from non-agricultural industries.

The new land investment system plays an important role in protecting the capital value of land, rapidly developing agricultural production, and implementing relevant agricultural and land policies. China's land contract system has played a major role in promoting rural development; however, individual households do not have the capital necessary for investing in modern agricultural infrastructure. This was evidenced during the 'Reform and Opening-Up' period in which investment in rural infrastructure was poor and, consequently, there was little increase in agricultural productivity.

The *Property Law of the PRC (2007)* stipulates that farmers may mortgage their management right to any barren land<sup>17</sup> they have contractual rights to, thus providing them with better means for investing in their agricultural operations. Farmers do not, however, have the right to mortgage their contractual management right to cultivated land.

In 2015 the State Council launched a pilot project on mortgage loans for the management right to rural contracted land.<sup>18</sup> The purpose of the pilot project was to implement the usufructuary right of rural land, grant farmers more property rights, deepen rural financial reform and innovation, activate rural resources, funds and assets effectively, increase capital investment in medium-term, long-term and large-scale operation of agricultural production, and provide the experience and mode for steadily promoting rural land system reform. These are other forms of land capitalisation. Overall, farmers were given the means to obtain funds needed for agricultural production by mortgaging their land management rights, thus creating the conditions enabling the development of financing channels for farmers' production and operation.

## Impact of sustainable and ecological environmental legislation

China is a vast country, but its land resources are limited. The national land use survey data notes that China feeds 22 per cent of the world's population but has only about nine per cent of the world's agricultural land. China's land resources are, therefore, under significant pressure. Since land is an important resource for human survival for the Earth's current and future generations, it is important to use the land sustainably and protect the environmental integrity of rural land. Research indicates that 'more than 50 per cent of the total cultivated land (in China) has experienced degradation'.<sup>19</sup>

In light of this research and other findings concerning the seriousness of the problems of environmental pollution and ecological degradation, the Chinese government has set about strengthening the population's concept of respecting nature, complying with natural rules and protecting the natural ecological civilisation.<sup>20</sup> In November 2012 the 18<sup>th</sup> National Congress of the CPC, made a strategic decision to 'vigorously promote the construction of ecological civilisation and draw a grand blueprint for the construction of ecological civilisation from 10 aspects'.<sup>21</sup> The report of the 19<sup>th</sup> National Congress of the CPC in October 2017 emphasised:

<sup>17</sup> Barren lands here refer to uncultivated mountains, gullies, hills and beaches. Article 46 of *RLCL 2002* stipulates that barren mountains, gullies, hills and beaches may directly be undertaken for contractual management by such means as bid invitation, auction and public consultation, or may also be undertaken for contractual management or for joint-stock cooperative management after the rights to land contractual management are converted into shares and distributed to the members of the collective economic organisation concerned.

<sup>18</sup> Government of China, *The State Council's Guiding Opinions on the Pilot Project of Mortgage Loans for Management Rights to Rural Contracted Land and Farmers' Housing Property Rights* <[http://www.gov.cn/zhengce/content/2015-08/24/content\\_10121.htm](http://www.gov.cn/zhengce/content/2015-08/24/content_10121.htm)>.

<sup>19</sup> Xiaobo Zhao 'Soil Degradation Through Agriculture in China: Its Extent, Impacts and Implications for Environmental Law Reform' in *International Yearbook of Soil Law and Policy 2017* (Springer, Cham) 37.

<sup>20</sup> The construction of ecological civilization is put forward in the face of the severe situation of tightening resource constraints, serious environmental pollution and degradation of ecosystems. The central government of China proposes that we must establish the concept of ecological civilization that respects nature, conforms to nature and protects nature, put the construction of ecological civilization in a prominent position, and integrate it into all aspects and the whole process of economic construction, political construction, cultural construction and social construction, in order to realise the sustainable development of the Chinese nation.

<sup>21</sup> *Hu Jintao's Report at the Eighteenth National Congress of the Communist Party of China* <<http://cpc.people.com.cn/n/2012/1118/c64094-19612151.html>>.

The construction of ecological civilisation is a long-term plan that concerns the well-being of the people and the future of the nation. Faced with the severe situation of tight resource constraints, serious environmental pollution and degradation of ecosystem, we must establish the concept of ecological civilisation that respects nature, conforms to nature and protects nature, and put the construction of ecological civilisation in a prominent position, integrate it into all aspects and processes of economic construction, political construction, cultural construction and social construction, and strive to build a beautiful China and realise the sustainable development of the Chinese nation.<sup>22</sup>

On 21 September 2015, the CPC Central Committee and the State Council issued an overall plan to expedite the ecological civilisation reform system, expounding its guiding ideology, idea, principle, goal and implementation. In addition, an amendment to the Constitution was passed by the NPC on 11 March 2018 to formally recognise the ecological civilisation system: article 32 of the *Amendment to the Constitution of the People's Republic of China* adds the concept of ecological civilisation, and article 46 of the *Amendment* adds protection of the environment to the duties and powers of the State Council under item six of article 89, which now reads: '(6) to direct and administer economic affairs and urban and rural development, as well as the building of an ecological civilisation'.<sup>23</sup> The construction of ecological civilisation has thus been confirmed at the level of the fundamental national law.

The first survey of soil contamination in China in 2014 found: 'The national soil environment situation is not optimistic; soil pollution is heavy in some areas, and soil environmental quality of arable land is worrying'.<sup>24</sup> Li Guoxiang, a researcher at the Chinese Academy of Social Sciences in China, said: 'The amount of fertiliser and pesticides used in China is very large; its production and use is the highest in the world. However, the utilisation ratio of chemical fertilisers and pesticides is 15-20%, which is lower than that in developed countries.' The Deputy Minister of Agriculture, Zhang Taolin, pointed out that 'because of long-term, unreasonably excessive use of fertilizers and pesticides, agricultural non-point pollution is increasingly serious'.<sup>25</sup> In 2014 China's *Environmental Protection Act (1989)* was amended to strengthen land conservation. This Act required the government to shoulder the guiding responsibility for the use of agricultural inputs. Article 49.1 states: 'The people's governments at various levels and their agriculture and other relevant departments and agencies shall guide agricultural producers and operators to conduct scientific cultivation and plantation, rationally apply cultivating additions such as pesticides and fertilisers, and properly handle agricultural wastes including agricultural plastic mulch and crop straw and prevent non-point sources agricultural pollution.' Article 49.1 also states: 'It is prohibited to apply solid waste and wastewater that do not conform to standards set for agricultural use and environmental protection to farmland. When applying pesticides, chemical fertilisers and other cultivating additions or irrigating, measures shall be taken to prevent pollution from heavy metals and other toxic and hazardous substances'.

### Farmer collective land and state-owned land share the same rights

China's current *Land Administration Law (1986)* states that, except under certain circumstances in rural areas, only state-owned land may be developed for non-agricultural uses, such as construction for housing, disaster mitigation and ecological conservation. As a result of this law, the state has expropriated a large number of collectively owned rural land for development, leading to a reduction in cultivated land area by 1.699 million hectares in the period 2011 to 2015.<sup>26</sup> Serious social problems resulted from such land acquisitions, with farmers' interests not reasonably compensated, and there is now a focus by authorities on methods to protect the rights of farmers whose farmland was expropriated: 'At present, the biggest imbalance of interests in land expropriation in China lies in the fact that once rural land is expropriated, the land price rises sharply with the change of its use, but the landless peasants are not compensated enough for their interests'.<sup>27</sup>

The 'Decision of the Central Committee of the CPC on Deepening the Reform of a Number of Major Issues', which was adopted by the 18<sup>th</sup> Session of the Chinese Communist Party, put forward a proposal to establish a unified urban-rural construction land market. The proposal is that, under the precondition of fitting the

<sup>22</sup> Xi Jinping, *Report at the Nineteenth National Congress of the Communist Party of China (2017)* <<http://cpc.people.com.cn/n1/2017/1028/c64094-29613660.html>>.

<sup>23</sup> *Amendments to the Constitution of the People's Republic of China* <<https://npcobserver.com/2018/03/11/translation-2018-amendment-to-the-p-r-c-constitution/>>.

<sup>24</sup> *National Soil Pollution Survey Bulletin* <[http://www.gtzyb.com/yaowen/20140417\\_62262.shtml](http://www.gtzyb.com/yaowen/20140417_62262.shtml)>.

<sup>25</sup> Zhai Xuan, 'China Will Reduce Fertilizer and Pesticide Usage Amount', *Jinghua Times* (15 April 2015).

<sup>26</sup> Ministry of Resources of the Peoples Republic of China, *China's Land and Resources Bulletin (2011-2015)* <<http://www.mnr.gov.cn/sj/tjgb/>>.

<sup>27</sup> Cheng Xiaobo, 'An Analysis Framework: Benefit Equilibrium in Land Expropriation' (2016) 11 *Academic Monthly* 84.



land planning and land use control, rural collective land owners will be allowed to sell, lease, invest and construct on their land in the same way that state owned enterprises can.

## Conclusion

The first part of the above review of the changes of legal systems governing rural land use in China since the founding of PRC provides one clear lesson for policy makers: the formulation of relevant policies and laws concerning the rural land system should be compatible with the economic needs of farmers, and the reform should respect the wishes of farmers and protect their rights and interests.

The second part of the review indicates that the legal status of rural household contractors will remain unchanged for the foreseeable future. The collective ownership of rural land will be further consolidated. Owners of rural collective land will be allowed to enter the primary land market<sup>28</sup> directly and obtain the same rights as state-owned land. For agricultural land, on the premise of retaining the land contractual rights, farmers can transfer the land management rights freely without subject restrictions,<sup>29</sup> the distinction between primary and secondary land thus disappearing. Types of land users will be more diverse and land use form will become more flexible. In addition to farmer households, there will be more new agricultural production and operation entities, such as farmers' professional cooperatives, agricultural companies, professional managers of agriculture and large agricultural households.

As a result of emphasis on sustainable land use, legislation on land ecological protection and sustainable use will be further strengthened.

## Bibliography

### Legislation

*Agriculture Law (1993)*

*Draft Agricultural Producer Cooperatives Standard By-laws (1955)*

*Environmental Protection Act (1989)*

*General Principles of the Civil Law (1986) ('GPCL 1986')*

*Land Administration Law (1986)*

*Land Reform Act (June 1950) ('LRA 1950')*

*Property Law of the PRC (2007)*

*Rural Land Contract Law (2002) ('RLCL 2002')*

*Senior Agricultural Producer Cooperatives Standard By-laws (1956)*

### References

*Amendments to the Constitution of the People's Republic of China*

<<https://npcobserver.com/2018/03/11/translation-2018-amendment-to-the-p-r-c-constitution/>>

An Zhenyuan, 'Review of China's Collectivization Movement (1949-1978)' (1991) 3 *Journal of Qinghai Normal University* (Social Science edition) 34

Bai Chengming, 'Analysis on Internal Relationship of Farmer Households' (2003) 6 *Journal of Gansu Institute of Political Science and Law* 18

Cheng Xiaobo, 'An Analysis Framework: Benefit Equilibrium in Land Expropriation' (2016) 11 *Academic Monthly* 84

<sup>28</sup> The primary market of land is the market in which the state transfers land use right of state-owned land or rural collective land after it is requisitioned by the state to users.

<sup>29</sup> Article 36 of the Land Contract Law, as amended at the end of 2018, stipulates that the contractor may decide to transfer the right of land management to others by leasing (subcontracting), stocking or other means according to law, and file it with the subcontractor.

- Du Runsheng. *Changes in China's Rural System* (Sichuan Publishing House, 2003)
- Government of China, *The State Council's Guiding Opinions on the Pilot Project of Mortgage Loans for Management Rights to Rural Contracted Land and Farmers' Housing Property Rights*  
<[http://www.gov.cn/zhengce/content/2015-08/24/content\\_10121.htm](http://www.gov.cn/zhengce/content/2015-08/24/content_10121.htm)>
- Hu Jintao's Report at the Eighteenth National Congress of the Communist Party of China  
<<http://cpc.people.com.cn/n/2012/1118/c64094-19612151.html>>
- Huang Shao'an, Sun Shengmin and Gong Mingbo, 'The Impact of Land Ownership Structure on Agricultural Economic Growth: An Empirical Analysis on Agricultural Production Efficiency on the Chinese Mainland (1949–1978)' (2005) 3 *Social Sciences in China* 38
- Luo Pinghan, *History of Rural People's Commune* (Fujian People's Publishing House, 2003).
- Ma Liguo and Feng Jikang, 'Rural Land Reform: Historical Changes and Logical Enlightenment' (1999) 1 *Xuzhou Normal University Journal* 14
- Mi Hua, 'The Communist Party of China and the Emotion Changes to Land for Farmer Farmers' (2007) 2 *Journal of Beijing Academy of Governance* 16
- Ministry of Resources of the Peoples Republic of China, *China's Land and Resources Bulletin* (2011–2015)  
<<http://www.mnr.gov.cn/sj/tjgb/>>
- National Soil Pollution Survey Bulletin* <[http://www.gtzyb.com/yaowen/20140417\\_62262.shtml](http://www.gtzyb.com/yaowen/20140417_62262.shtml)>.
- New China Archives, *Land Reform Movement in New China*, <[http://www.gov.cn/test/2009-08/20/content\\_1397342.htm](http://www.gov.cn/test/2009-08/20/content_1397342.htm)>
- Overview of China's Grain Yield, Population and Per capita Grain Yield in the Past Years  
<[http://www.360doc.com/content/17/0407/23/642066\\_643747754.shtml](http://www.360doc.com/content/17/0407/23/642066_643747754.shtml)>
- The History of the People Republic of China, *The 'Great Leap Forward'*  
<[http://www.hprc.org.cn/gsgl/dsnb/zdsj/200908/t20090821\\_28359.html](http://www.hprc.org.cn/gsgl/dsnb/zdsj/200908/t20090821_28359.html)>
- Wang Liming, 'A Discussion on Some Problems of the Contract Management Right of Rural Land' (2001) 6 *Journal of Renmin University of China* 78
- Xi Jinping, *Report at the Nineteenth National Congress of the Communist Party of China* (2017)  
<<http://cpc.people.com.cn/n1/2017/1028/c64094-29613660.html>>
- Xiaobo Zhao 'Soil Degradation Through Agriculture in China: Its Extent, Impacts and Implications for Environmental Law Reform' in *International Yearbook of Soil Law and Policy 2017* (Springer, Cham) 37
- Yang Feng, 'On the Land Policy of the Communist Party of China and its Changes' (1999) 1(21) *Journal of Hanshan Normal University*
- Zhai Xuan, 'China Will Reduce Fertilizer and Pesticide Usage Amount', *Jinghua Times* (15 April 2015).