

Empirical Study and Legislative Improvement on the Construction of a Modern Agricultural Management System

—The Case of Reform Practices in Sichuan Province of China

Wei Tang

Law School, Sichuan Agricultural University, Sichuan 625014, China.

Tangwei_lawyer@126.com

Keywords: agricultural management, separation of three rights, capitalization of rural land

Abstract: There are severe problems that entail immediate solutions in building modern agricultural management system in China. Based on the reform practices of agricultural management system in Sichuan Province, the paper analyzes theoretical problems emerging from the construction of modern agricultural management system in China, including creditors' rights transfer not conducive to the sustainable use of rural land, difficulties in connection between rural land and capital, which restricts the agricultural large-scale development, and obvious administrative power weakening the role of market in resource allocation. And then suggestions on improving relevant legislation for building the modern agricultural management system are proposed. The rural land contracted management right should be reshaped with the idea of capital-based rural land reform and new agricultural management organizations with their own core assets cultivated. In so doing, positioning and homing of respective powers of the government and the market will be promoted.

Since China's founding in 1949, its agricultural management system has undergone developments and reforms. And a "two-level operation system of unified management combined with independent management on the basis of household contract management in rural areas" was finally formed clearly defined in the Constitution. Forty years of reform practices shows that China's world-renowned achievements in rural reforms can be attributed to the basic system for rural management with household contracting of rural land as its core. However, with the deepening of industrialization, new-type urbanization, continuous influx of rural labor into cities and rapid transfer of rural land, China's agricultural management pattern is undergoing major changes. The traditional fragmented "homesteader" operating pattern is revealing deep-seated problems and structural contradictions --"those possessing rural land don't farm" yet "those willing to farm have no land." Therefore, in the current agricultural development, not only the realistic problem of "who to farm rural land" will be encountered, but enormous challenges of "what kind of land to farm" and "how to farm" should be responded to. It is particularly necessary and urgent to innovate the agricultural management system to resolve deep-seated contradictions in the construction of traditional agricultural management system[1].

This paper intends to analyze theoretical problems in building modern agricultural management system in China by focusing on the reform practices of agricultural management system in Sichuan Province, and propose suggestions for improving related legislation.

1. Empirical Study of Modern Agricultural Management System in Sichuan Province

With the current agricultural economy in Sichuan, a typical province with large agricultural output in China, at a juncture of transformational development and against the background of urban and rural integral support reform trials, building modern agricultural management system is a practice of agricultural modernization and also the inevitable choice of upgrading the province with remarkable agricultural output into one with strong capability in agriculture.

1.1 The “Agricultural Co-operation System” Model of Chongzhou District in Chengdu City

After years of exploration and practice, Chongzhou District has formed a preliminary “agricultural co-operation system” model based on family contracting, with farmers as the core subject and integration of professional managers in agriculture, rural land stock cooperatives and social service organizations, which has boosted the transformation of the agricultural management mode and enjoyed important reference value for innovating agricultural management system and mechanism in China. The characteristics of the "agricultural co-operation system" include: The first is to achieve the "co-construction and co-operation" of agricultural management entities. The second is the “shared sharing” of operating income. And the third is “win-win outcomes” of business objectives. Specifically, this model promotes the specialized agricultural management by cultivating professional managers in agriculture, establishes rural land stock cooperatives to promote large-scale operation of agriculture, strengthen socialized services and enhance the organized agricultural operation by strengthening social services. In this way, “co-construction, co-operation, sharing and win-win outcomes” among multi-subjects have been realized, the enthusiasm of all parties mobilized to the fullest, rights and interests of each participating entity effectively guaranteed, and thus a mechanism of close-knit interest has been formed.

1.2 “Industrial Park of Farmers” Mode of Shunqing District in Nanchong City

When exploring new agricultural management system, many villages and towns in Shunqing District of Nanchong City[2] have built industrial parks of farmers, forming a new path of integrated industrial development with farmers’ independent construction, enterprises’ voluntary participation, active financial intervention, and local government’s great promotion. It has solved many practical problems and achieved remarkable results. The “industrial park of farmers” has the following characteristics: The first is farmers’ independent construction. That is to say, under the guidance of the government, farmers select their industries, raise funds, build facilities, manage their own parks all by themselves, playing a major role in the integrated structure. Moreover, they set up professional associations, make management conventions and conduct self-management. The second is enterprises’ voluntary participation. Through participation in brands, technologies and sales, companies play a key leading role in the structure and form a “company+park+farmer” model. The third is active financial involvement. The District Credit Union provides loans for farmers and a rural micro-credit guarantee company funded by the district finance has been established to provide loan guarantees for farmers intending to develop their industries, playing an active role in promoting the structure. The fourth is vigorous promotion from the local government. The local government focuses on promoting the renewal of farmers’ concepts, scientifically formulating new rural construction plans, introducing leading enterprises, building infrastructure, playing roles of organizer and facilitator in the integrated structure. “Industrial Park of Farmers” model in Shunqing by bring the market in allocating resources into full play has mobilized the most enthusiasm of all parties and established the interest-knit mechanism of “sharing interests and risks” among farmers, leading enterprises and financial departments. Meanwhile, financial institutions have also gained stable returns by offering good loans, playing a financial support role, truly realizing the integration, mutual benefit and the greatest synergy of farmers, enterprises and financial institutions,.

1.3 “BOT in Agriculture” Model in Weiyuan County of Neijiang City

BOT in agriculture[3] is formed through the adoption of BOT (Build-Operate-Transfer) model of other industries. It specifically refers to an approach to investing, constructing and operating industrialized agricultural projects in which the design and construction of agricultural management projects in the agricultural operation are generally funded by leading enterprises or professional cooperatives. Project developers can regain its investment after a period of operation in terms of prior agreement with farmers. Upon the expiration of the operation period, the ownership or management right of the project is delivered back to farmers. Weiyuan County of Neijiang City took the lead of the province in exploring and establishing the “Model of BOT in Agriculture” in which “owners are

responsible for transferring land, local government for partial subsidies, project developers for operating for limited years, signing purchase order and free transfer to professional cooperation organizations”. Driven by government support, participation by leading enterprises and professional cooperation organizations, on the one hand, the model has accelerated the adjustment of local industrial structure to solve the problem of concentration development of fragmented land and add more jobs for local farmers, with 53,000 mu of figs with an output value of several hundred million RMB developed, ranking first in China. On the other hand, it has also reduced the investment risk of owners' transfer of land, boosted the development of leading enterprises and of the local economy, increased the income of land owners and farmers. BOT in agriculture is an innovative agricultural management model painting a sound picture of multi-win results.

2. Institutional Difficulties in Constructing a Modern Agricultural Management System

2.1 Creditor's Rights Transfer is not Conducive to the Sustainable Use of Rural Land

Without the intensive use of land resources, a new agricultural management system featuring large scale, industrialization and modernization cannot be developed and such use of land resources will inevitably require rural land transfer, especially the rural land contracted management right. Through investigations, it is found that in the current practice of developing modern agriculture in Sichuan Province, leasing and subcontracting within collective economic organizations are still the most common forms in transferring contracted management land. However, in the long run, credit transfer mode does not result in real rights transfer. With inadequate stable real rights protection, the mode implies “short term” and “fracture-like” risks in creditor’s rights, undermining the sustainable agricultural development. Land lease can be taken as an example. On the one hand, creditor’s rights of lessees tend to be overwhelmed by the regulatory intervention of collective economic organizations and state’s land expropriation decisions. Therefore, lessees’ rights on farmland will be unstable and risk to “fracture”. On the other hand, the risk of farmland transfer would affect investment decisions of actual farmland operators, often causing “short-term” investment behaviors. Unstable credit transfer is difficult to maximize land use efficiency.

2.2 The Difficult Connection between Rural Land and Capital Constrains Agricultural Large-Scale Development

Capital is the best “adhesive” in both processes of agricultural industrialization and moderately large-scale operation. The right to contracted management of rural land is the most important property owned by agricultural management entities. The “capitalization” of such right is an important way to revitalize idle land assets, strongly guaranteeing the attraction of influx of social capital, and to provide inexhaustible momentum to meet great capital demand from agricultural production. Therefore, how to obtain sustained and stable capital investment is the core issue in building a new agricultural management system.

However, given the premise that the right to contracted management of rural land has not been completely divested of the social security function, China's current laws still have insurmountable institutional constraints on capitalization of the right to contracted management of rural land. There are unreasonable legal restrictions on the term, adjustment, recovery of the right and contribution, mortgage, transfer and other systems of land transfer. This has caused obstacles to the “connection between rural land and capital”, whether rural land converted into shares is invested in professional cooperatives of farmers, agricultural companies or “the secondary use” of rural land is achieved through mortgages. Hence investments in the right to contracted management of rural land still faces difficulties like inability to “transfer”, impossibility to conduct value assessment and mortgage registration of the right as a suitable collateral, contrary to the demand for large-scale and stable land capital from new agricultural management entities such as professional cooperatives of farmers and agricultural companies and restricts the enthusiasm and effectiveness for modern agricultural development.

2.3 The Obvious Administrative Power Weakens the Role of Market in Resource Allocation

In the current process of building a modern agricultural management system, the government is still an important driving force. The government's administrative role is reflected in the development of new management entities and rural land transfer and the market's function in resource allocation is remarkably limited.

The local government can be taken as an example and its administrative role is reflected in the whole process of building the modern agricultural management system. The government's "arrangement" ideas and administrative "inertia" are reflected in government documents and support policies rolled out by local governments to encourage land transfer and develop agricultural modernization at the macro level or promotion measures such as unified planning and government subsidies as an incentive in micro operations. Various pilots have shown great dependence on policy support and preferential treatment, and the decisive role of the market in resource allocation is not significant, which inclines to cause negative consequences in practices. For example, firstly, in existing documents of local government, generally fiscal subsidies will be given according to certain standards when new agricultural management entities participate in agricultural operations of a certain scale. Under the guidance of this preferential policy, inevitably some enterprises or self-employed persons will not be able to conduct comprehensive risk assessment and profile or even give wrong priorities. In order to obtain preferential policies such as fiscal subsidies, they will blindly lease rural land for development. And in the context, there are a multitude of bosses not understanding agriculture, not caring high land prices and not counting high costs, regarding scale as "benefits" and turning to the government for "benefits"[4]. This would increase the risk of various disputes among business owners, collective economic organizations and farmers and hinder industrialization, modernization and development toward large scale in building a new agricultural management system. Secondly, excessive administrative intervention tends to distort the relationship between supply and demand in the market, making lease rentals of land transfer unrealistically high and increasing the risk of large-scale, industrialized agricultural operations. In some investigations, the price of land transfer suffering the government's administrative intervention has been found to be much higher than spontaneous transfer, and may even 5.3 times the price of spontaneous transfer. The high land lease rentals under the government's excessive "arrangement" could lead to an increase in production costs of agricultural products, weakening operators' competitiveness and increasing their operational and default risks.

3. The Legislative Improvement on Building a Modern Agricultural Management System

3.1 Reshaping the Right to Land Contractual Management with the Idea of Capitalized Reform of Rural Land

Firstly, legal norms that hinder the capitalized transfer of the right to land contractual management should be systematically unscrambled and modified. The laws and regulations that directly or indirectly impede the right transfer in the current legal system shall be abolished or modified separately. Other laws related to the right shall be further examined or revised, like Law of the People's Republic of China on Farmers' Professional Cooperatives, Company Law of the People's Republic of China and other laws and regulations on industries related to agriculture. In summary, we should focus on the following aspects to realize capitalization of the right: establishing and improving the price evaluation system of rural land, refining the rural credit system, and providing policy support for farmland property rights transactions; setting up and improving the registration system for confirming farmland rights and for transfer of the right through modification of laws; permitting rural land converted to shares to be invested in professional cooperatives of farmers, agricultural companies and to establish trusts and make mortgages, etc.; amending other business organization laws and agriculture-related laws relevant and applicable to the capitalization of rural land and establishing systems of preferential repurchase right for farmers and government repurchase to prevent farmers from "losing land".

Secondly, the new policy of "three-right separation" and rural land transfer and management innovation pilot should be proceeded in parallel. The new policy of "three-right separation" aims to reform rural land rights system, further liberalize the right to operate contracted land and provide the core driving force and prerequisites for rural land transfer and large-scale agricultural operation. Innovating the agricultural management mode further promotes the realistic demand for realizing top-to-down reforms of the rural land legal rights system. The mode and system have shown an important feature of linkage innovation and advancement in parallel. Now the important task is to deepen the transformation of the new policy of "separation of three rights" into the legal system and to achieve parallel advancement of rural land transfer and the innovation of modern agricultural management systems.

3.2 New Agricultural Management Organizations with Their Own Core Assets Should be Cultivated

In the process of cultivating new agricultural management entities, it is more important to realize capitalization of the right to operate contracted land through institutional innovation, to expand the scope and scale of property rights transfer of the right, to ensure that farmers and other agricultural management entities enjoy property rights and disposition on farmland, which will be unmatched with single financial supports, preferential policies or administrative orders. This will not only make rural land really play the function of the material carrier, but fully release its function to generate fortunes, which will help to stimulate the traditionally scattered family-run farmers to transfer their land for improving fragmented, idle and abandoned land. Meanwhile, large professional households, family farmers, farmers' professional cooperatives or agricultural companies, only when possessing the land property rights, can enhance their ability to survive and develop and sustain the momentum and confidence of sustainable large-scale development of agriculture featuring industrialization and modernization. In so doing, the connection between rural land and capital can be truly realized and agricultural modernization realized.

3.3 The Positioning and Homing of Respective Powers of the Government and the Market Should be Promoted

Due to complexity and long-term nature of matters in "agriculture, farmers and rural areas" in China, the government has always played a central role in promoting modern agricultural development and urban-rural integration. The government's full authority and administrative inertia are certainly exposed in both policy guidance at the macro level and specific operations at the micro level. Modern agriculture and building a new agricultural management system developed, it is an important issue to promote the positioning and homing of respective powers of the government and the market.

It is necessary for the government transform its functions by strengthening its public service function of agricultural management, focusing on realizing agricultural public goals, providing standardized services of system improvement, complete sets of rules, platform construction for the market of spontaneous land management right transfer and playing a good role in supervision, guidance and coordination. Meanwhile, the government should prudently implement micro and direct intervention in rural land transfer and the cultivation and production mechanism of new agricultural management entities, leaving plenty of room for the market. Additionally, laws such as Land Administration Law of the People's Republic of China and Law of the People's Republic of China on the Contracting of Rural Land should be further revised and improved to specify and integrate roles of the government to meet the needs of new progress.

References

- [1] Jiang Changyun. On Establishing A New Agricultural Operation System--How to Transform and Upgrade China's Agricultural Industrial Chain and Value Chain [J]. *Frontiers*,2014,1:70-78.
- [2] The Research Group of the Policy Planning Office of the Sichuan Provincial Committee of the Communist Party of China.Shunqing Model: Integration of Four-in-One Industry--The Practice and Enlightenment of Developing Industrial Park of Farmers in Dalinsi Village, Dalin Township, Shunqing District, Nanchong City[J].Investigation and Decision-making(Internal reference),2008,162:1-3.
- [3] Wu Xiaolong. The Promotion of Agricultural BOT Model and Improvement on Rural Property Rghts Trading Services in Weiyuan[N]. *Neijiang Daily*,2015-5-22(6).
- [4] Department of Development Planning of the Ministry of Agriculture and Rural Affairs of the People's Republic of China. On New Agricultural Management System Adapting to Modern Agricultural Development, Information on http://www.moa.gov.cn/sjzz/jhs/yijian/201509/t20150930_4853094.htm.