

Evolution of Rural Collective Land Ownership in the People's Republic of China

There had been three land ownership revolutions launched in People's Republic of China (China) prior to the emergence of rural land collective ownership: the first one was launched during the War of Resistance (1941) to implement the land policy of rent and interest rate reduction by landlords and the payment of rent and interest by peasants^[1]; the second one was launched during the Liberation War of the Chinese People (1947) to confiscate landowners' land, eliminate the rural land system of feudal exploitation and implement the land system of land-to-the-Tiller and average land allotment based on rural population; the third one was initiated during the power consolidation after the establishment of People's Republic of China, to eliminate feudal land ownership and carry out the peasantry land ownership. By the end of 1952, China had basically completed its nationwide land reform, thoroughly abolished the land system of federal exploitation and exhaustively changed the rural production relations; China's rural land system had been innovated from the original landlordism into peasants' private ownership.

Since completing land reforms, the Communist Party of China (CPC) had launched socialist agricultural transformation (namely the agricultural cooperative movement) and carried out three interconnected steps and forms on the basis of voluntary participation and mutual benefit, model demonstration and government assistance. Form I was agricultural producer's mutual aid team between the establishment of central government of China and the end of 1952, as mutual aid organization of productive labor characterized by socialist budding for exchange and mutual aid of labor force, animal power and farm tools. Form II was the primary elementary agricultural producers' cooperative^[2] between early

[1] Dong Zhikai, Chen Tingxuan, 2011, 17-24.

[2] Model Regulations for Agricultural Producers' Cooperative, passed at the 33rd Session of 1st Standing Committee of the National People's Congress on Mar. 17th, 1956, had regulated that agricultural producers' cooperative is characterized by pooling of land and unified operation, on the basis of peasants' private land ownership, with cooperative members' participation in profit according to individual land pooled as shares. This accession system only by land is called "elementary cooperative" in China, in which land ownership had been transformed from individual use into collective use, in spite of retaining peasants' land private ownership, with restricted limitation on peasants' land ownership. Elementary cooperative marked another major revolution that China's land system had undergone.

1953 and the first half of 1955, characterized by pooling of land, unified operation and semi-socialism; Form III was between the autumn of 1955 and the end of 1956 to further establish the advanced agricultural cooperative team^[3], characterized by complete socialism and collective land ownership and main means of production. From mutual aid team to advanced cooperative team, peasants' private ownership had been completely replaced by socialist collective ownership by working masses, featured by the collective ownership of land and means of production^[4].

Since 1956 when Model Regulations for Advanced Agricultural Producers' Cooperative was passed on the Third Plenary Session of 1st NPC in 1956 until now, collective land ownership has been sustained in China for six decades, during which it has experienced the formation, development and maturity period, coming into being a stable and full-blown system. Collective land ownership, featured by socialism with Chinese characteristics, is different from the private ownership in western civil law system. Ownership in mature civil law system and ownership theories mainly indicate private ownership; while individualism acts as the elementary metaphor, on which the formation and development of private ownership theories rely. Hence, the ownership theories in civil law system do not apply to interpreting the collective land ownership in China with collectivist and socialist theories as the guiding ideology^[5].

The collective land ownership in China is the product of the unique historical conditions, along with the reform and constant evolution of China's political and economic system. Therefore, we should proceed from the historical development for an in-depth understanding of China' rural collective land ownership. This paper reorganizes the evolution process of collective land ownership with the expectation of presenting collective ownership, a special ownership, to the readers.

I. FORMATION OF COLLECTIVE LAND OWNERSHIP—COOPERATIVE COLLECTIVE OWNERSHIP (1956-1958)

The year of 1956 marked the basic completion of socialist restructuring for the rural means of production and the universal establishment of advanced agricultural producers' cooperatives with socialist characteristics in China. Model Regulations

- within a short period after land reforms, namely the transition of rural land ownership from peasants' private ownership to collective ownership.

[3] He Jia, 2014, 12. "Distinctive from elementary cooperatives that basically retain members' ownership of land and other important means of production, advanced cooperatives transform members' private ownership of land, farm animals and other important means of production from members to collective ownership, abolish the profit sharing of land, farm animals and large farm tools and other means of productions according to contributions, but carrying out the distribution system based on performance."

[4] Liang Li, 2012, 42.

[5] Zhu Zhizhou, 2008, 1.

for Advanced Agricultural Producers' Cooperatives^[6], passed at the Third Plenary Session of 1st NPC, had regulated that peasant members of cooperatives shall transform the ownership of their private-owned land, farm animals, large farm tools and other means of production into cooperative collective ownership, for the purpose of collective labor organization and "labor division according to individual capability and rewards according to labor performance" regardless of gender or age.

Advanced agricultural production cooperatives was characterize by the public ownership and collective uniform operation, which transformed the ownership of peasants' private land into collective and that of peasants' other means of production, e.g. farm animals, large tools and ponds, wells or other water conservancy facilities affiliated to the land into cooperative collective, and eliminated land return and profit participation of land and large farm tools in elementary cooperatives. Cooperative peasants were allowed to retain a small amount of family plots. Cooperatives shall realize the collective labor and operation according to uniform planning; divide peasants members into various production teams as the basic units for cooperative labor organizations; implement production responsibility system; and allocate the cooperative revenue after the reduction of various expenditures and commission based on work points, namely distribution based on labor capability. Peasants still retained their family plots, small farm tools and the operation right of small-scale family sideline business, yet which only took a back seat in the entire agricultural production and operation. Since then, China had abolished peasants' private land ownership and established the collective land ownership of advanced

[6] Model Regulations for Advanced Agricultural Producers' Cooperatives Article 2: Agricultural producers' cooperatives, according to socialism principle, shall transform the ownership of peasant members' private-owned means of production into cooperative collective ownership, for the purpose of collective labor organization and the implementation of "labor division according to individual capability and rewards according to labor performance" regardless of gender or age.

Article 13: Peasant members must transform their private-owned land, farm animals, large farm tools and other means of production into the cooperative collective ownership. Their private means of livelihood and scattered trees, poultries, domestic animals, small farm tools and other tools for the operation of family sideline production are still owned by peasant members themselves instead of collective ownership. The ownership of peasant members' private-owned ponds, wells and water conservancy structures affiliated to the land shall be transformed into collective ownership, along with the transformation of land collective ownership. If these water conservancy structures are newly built and without any profit gained by original owners, cooperatives shall appropriately pay the cost of construction back to the original owners. Any unsettled loans of these water conservancy structures shall be paid by cooperatives. When the private-owned lotus ponds, fishponds or reed ponds of peasant members are transformed into cooperative collective ownership, cooperatives shall pay any lotus, fish or reed in the ponds to the original owners at rational costs.

Article 16: Agricultural producers' cooperatives shall allocate certain amount of land to peasant members for vegetable cultivation on the basis of their household members. Generally, the land amount for household member shall be no more than 5% of local average land amount per capital. The original graveyard and residential land shall not be transformed into collective ownership. Peasant members' demands of residential land for newly built houses and graveyards shall be solved by cooperatives uniformly with the application of local township people's council for assistance when necessary.

cooperatives^[7], marking the transition from peasants' individual ownership to socialist collective ownership.

According to Model Regulations for Advanced Agricultural Producers Cooperatives Article II: "cooperative peasants could withdraw from the cooperatives at the end of each production year and are allowed to take away the land that they had transformed into cooperative collective ownership or the land of same amount and quality, as well as the share funds and investments that they had paid," leading to the instability of collective land ownership of advanced cooperatives during this period. Peasants' cooperative withdrawal indicated that land ownership could be inter-transformed between peasants' private land ownership and cooperative land ownership.

II. PASSIVE DEVELOPMENT AND TRANSITION OF COLLECTIVE LAND OWNERSHIP—COMMUNAL OWNERSHIP (1958-1982)

During the period between the winter of 1957 and the spring of 1958, China had mobilized hundreds and thousands of peasants for the unprecedented construction trend of irrigation and water conservation in rural areas. Due to the large amount of manpower, material and financial inputs for large-scale projects, the labor and financial allocation, breaking through the borders of cooperatives, villages, towns or even provinces in some rural areas for free of charge for the construction of irrigation and water conservancy, had been highly praised by CPC central committee. Resolutions about Establishing People's Commune in Rural Areas, passed at the enlarged meeting of the Political Bureau of CPC central committee in August 1958, proposed that people's commune shall be the inevitable trend. Several months later, 740,000 agricultural producers' cooperatives in China had been restructured into 26,000 people's communes, which implemented the integration of government administration with commune management, setting one commune for each village generally or for each town specifically, to combine and transform the means of production of advanced cooperatives to people's communes.^[8]

People's communes were new social organizations developed on the basis of advanced agricultural producers' cooperatives, which were characterized by socialist property but collective ownership, implementing the distribution principle of duty division based on labor capability and rewards distribution based on labor. However, people's communes were significantly different from advanced agricultural producers' cooperatives. First, people's communes were collectives with much larger scale, compared to advanced agricultural producers' cooperatives. The latter one was consisted of couples or hundreds of households generally, with

[7] Gao Fei, 2012, 61.

[8] See Jiang Feng, 2008.

160 households of each cooperative averagely nationwide. However, a people's commune could be consisted of hundreds of thousands of households generally. Secondly, the scope of business for advanced agricultural producers' cooperatives was agriculture, compared to diversified businesses of people's communes including agriculture and industry. In terms of agriculture, people's communes engaged in grain and commercial crop production, as well as forestry, grassland farming, sideline, fishing and other production. Thirdly, advanced agricultural producers' cooperatives were economic organizations, while people's communes were organizations integrating politics, economy, military and culture. Communal members were consisted of workers, peasants, merchants, students, and soldiers, acting as grass-root government institutions in rural areas and administration institutions. Fourthly, advanced agricultural producers' cooperatives were the organizers of collective productions; while people's communes were the organizers of both collective production and collective life. Fifthly, people's communes and advanced agricultural producers' cooperatives were also distinctive from each other in terms of distribution system. Currently, people's communes basically carried out the rewards distribution system according to work performance and the distribution system according to ones' needs at the budding stage. Hence, people's communes then were still of socialist economic property, yet including the communist budding internally, showing that people's communes were definitely not the simple expansion of advanced agricultural producers' cooperatives, but a new historical stage of development for the agricultural cooperative cause of China^[9].

The communal ownership of means of production had emerged in succession around China, in the wake of the development of rural communization movement. At the early stage of communization, people's commune acted as the basic accounting unit and the subject of land ownership.

During the Three Years of Natural Disasters between 1959 and 1960, national food shortage and famine had broken through the bright expectation of the Resolutions about Several Issues of People's Communes on people's communes, gradually exposing the drawbacks of people's communes: the restriction of collective management on the production independence of production teams and the negative influence on the initiatives of rural labors on equalitarian distribution. Consequently, CPC central committee had had to make adjustments on the ownership of such people's communication to correct the drawbacks of communal management system.

Rules and Regulations for Rural People's Communes (Draft), formulated by Comrade Mao Zedong 1961, had confirmed the adjustment of people's communes as "three-level ownership on the basis of teams". Despite of the active role, there were still limitations and weakness for such adjustments, just as the propositions of some scholars: "if we carry out such communal system, the path of public

[9] Sun Jinduo, 1959, 23.

ownership larger in size with higher degree will be denied temperately, yet peasants are screaming for the “production contracted to each household”, so that the continuous explorations on various reforms of communal system will also be hindered!^[10]

Work Regulation on Rural People’s Communes (Amended Draft) issued in 1962, had amended the communal administrative system substantially, which had changed the communal ownership of people’s land down to the land ownership of production teams; clearly regulated the accounting unit of peoples’ communes as production teams. According to local conditions, the organizations of people’s communes could be two levels: communes and production teams, or three levels: communes, production brigades and production teams, namely the general three-level ownership of people’s commune system on the basis of production teams.^[11] Communes, production brigades and production teams, as the subjects of respective land ownership, shall enjoy independent ownership and operation rights of their own properties. Among the three levels, higher level shouldered lower level’s leadership and supervision responsibilities of production management, yet without the right to dispose the properties owned by lower level or occupation and usage for free of charge.^[12] Such rural land system of “tri-level ownership based on production teams” had been confirmed by Constitutions of 1975 and 1978.^[13]

III. MATURITY AND DEVELOPMENT OF COLLECTIVE LAND OWNERSHIP-CURRENT LAND OWNERSHIP (SINCE 1982)

Prior to the Third Plenary Session of 11th CCP, the drawbacks of communal land ownership featured by collective ownership and operation had been exposing gradually, with low production efficiency, sever equalitarian distribution system resulted from collective operation and the universal phenomenon of “communal pot”,^[14] which had severely hindered the development of productivity and would be replaced by new systems inevitably. Starting from “production contracted to each household” in Xiaogang Village, Fengyang Town, Anhui Province in the winter of 1978, China had launched another important reform on land system, and had transformed the land system of collective ownership and operation into

[10] Chen Dabin, 2010, 277. It’s quoted from He Jia, 2014, 12.

[11] Gao Fei, 2012, 63.

[12] Compiled by Civil Law Teaching and Research Office, Southwest University of Political Science and Law: *Lecture Notes of Civil Law of PRC* (Draft), 1980.5, p. 150; Wang Zhong et al., 1984, 187. Quoted from Gao Fei, 2012, 63.

[13] After the establishment of People’s Republic of China, four constitutions had been passed on Sep. 20th, 1954, Jan. 17th, 1975, Mar. 5th, 1978 and Dec. 4th, 1982, respectively. The current prevailed constitution is Constitution of 1982, with four amendments in 1988, 1993, 1999 and 2004.

[14] “Communal plot” is a vivid analogy for the equalitarian distribution, indicating no influence of work performance and amount on individual salary or the distribution of labor efficiency.

separated ownership and operation right as land collective ownership and peasants' household contract, namely dividing land ownership into property right and operation right. The property right was still belonged to collective economic organizations, which equally subcontracted the operation right to peasants for independent operation and undertook the supervision responsible of contract fulfilling, uniform arrangement, usage and scheduling of public facilities, land adjustment and distribution, to form up a dual-level operation system combining individual management and group management. The implementation of household contract-responsibility system had corrected the long-term highly concentrated management mechanism and excessive monotony operation mode to change peasants from simple laborers in collective economy into producers and operators, in order to dramatically mobilize peasants' enthusiasm for production and better display the potential of labor and land.

Article 8 Provision I in Constitutions of 1982 had regulated that "cooperative economy including rural people's communes, agricultural producers' cooperatives and other forms of production, supply and marketing, credit and consumption shall be socialist collective ownership economy of working masses. Laborers participating in rural collective economic organizations are entitled to run private land plots, private hilly land, and household sideline and raise privately-owned livestock within the limits laid down by law." This regulation had been amended in 1993^[15] and 1999^[16] along with the deepening reform on rural economic system, leading to the well-established dual-tier operation system combining centralization and decentralization on the basis of household operation in the basic law.

Notifications on Implementing Separate Government Administration from Commune Management and Township Government Establishment, issued by CPC central committee and State Council in October 1983, had proposed that "local government shall establish township government and township Party committee; and gradually establish economic organizations according to production demands and public wills". The reform on separating government administration from commune management had been basically completed by the end of 1984, declaring the end of rural people's communes land system characterized

[15] Clause 1 Provision VIII Article 6 of PRC Constitutional Amendment (1993) was amended as "the rural household output-related responsibility system, production, supply and marketing, credit, consumption and diversified forms of cooperative economy is the socialist collective ownership economy of working masses. Laborers participating in rural collective economic organizations are entitled to operate their private-owned land, hills, household sideline and raise their private-owned livestock within the limits laid down by law."

[16] Clause 1 Provision VIII Article 15 of PRC Constitutional Amendment (1999) was amended as "rural collective economic organizations implement the dual-tier operation system on the basis of household contracting operation with the combination of centralization and decentralization. Cooperative economy of diversified forms including rural production, supply and marketing, credit and consumption is socialist collective ownership economy of working masses. Labors participating in rural collective economic organizations are entitled to operate their private-owned land, hills, household sideline and raise their private-owned livestock within the limits laid down by law."

by “integrating government administration and economic management with large in size and collective in nature”. Hereafter, General Principles of Civil Law of PRC, Land Administration Law of PRC, Agricultural Law of PRC, Law of PRC on Land Contract in Rural Areas, Property Law of PRC and other related laws^[17] had formulated clear regulations on collective land ownership and contracted land operation right.

Household output-related contract responsibility system, from its emergence to ultimate establishment, had undergone three phases. During Phase I as the budding and start-up phase, ordinary Chinese peasants, represented by the ones at Xiaogang Village, Fengyang Town, Anhui Province, had implemented the revolution practice targeting at household contracted operation under severely impoverished conditions. In 1978, production team of Xiaogang village decided to divide its land for production contracted to each household. At the end of the year, such a production team, which had never delivered any grain to the government since communization, had delivered grain to the state for the first time, due to the clear responsibility division and flexible operation mode. The implementation of peasants’ voluntary household contracted operation had experienced the process of prohibition, exception permission, permission in small scale and comprehensive promotion of CPC central committee; and this phase also had experienced prohibition and exception permission. In December 1978, trial Draft of Work Regulations on Rural People’s Communes had clearly regulated that “production contracted to each household and land separated to each household are prohibited.” In September 1979, Resolutions of CPC Central Committee on Several Issues for Accelerating Agricultural Development, passed at the Fourth Plenary Session of 11th CPC had strictly limited the scope of “production contracted to each household” within “individual households with special demands of household sideline production, located in remote mountain areas with inconvenient traffic”. Phase II marked the comprehensive development of household contract responsibility system. During the key period when production contracted to each household confronted with various barriers, Mr. Deng Xiaoping and responsible people of CPC had given important speeches on rural reform issues in May 1980, which had publically supported the implementation of production contracted to each household, acting as an important role to break away people’s fossilized concept and psychological fear. CPC central committee Document No. 75, as Several Issues on Further Strengthening and Improving Rural Production Responsibility System in September 1980, had regulated that “production teams in remote mountain areas with poverty and backwardness failing in collective economy shall be supported for their voluntary implementation of production contracted to each household or work contracted to each household”. This had been the first central file about

[17] Article 27, 74 and 81 of General Principles of Civil Law of PRC; Article 8, 9, 10 and 14 of Land Administration Law of PRC; Article 5 and 10 of Agricultural Law of PRC; Article 2, 3, 5, 7 and 9 of Law of PRC on Land Contract in Rural Areas; Article 58-63 and Chapter VI of Property Law of PRC.

production contracted to each household, exerting important influences on promoting the reform on agricultural system. Phase III marked the comprehensive completion of household contracted responsibility system. Minutes of National Conference on Rural Work, approved and forwarded by CPC central committee in January 1982, had officially confirmed production contracted to each household as a production responsibility system for the first time, indicating that it was established on the basis of public land ownership, as a component of socialist agricultural economy^[18]. Several Issues about Current Policies for Rural Economy, issued and distributed by CPC central committee in January 1983, had further highly praised household output-related contract responsibility system, marking its official establishment as a strategic decision, with its round-off work thoroughly completed in 1984. The promotion of household output-related contract responsibility system had shaken off the existence basis of communal system fundamentally, whose “three-level ownership on the basis of production teams” had been replaced by household contracted operation. The systematic innovation of household output-related contract responsibility system acted as the example of successful reform on farmland property right system in modern times in China and proved that the effective development of property system in modern economy doesn’t mean that all of right bundles shall be concentrated to similar subject; on the contrary, the appropriate right decentralization is the key to successful system arrangement^[19].

At present, China has entered into the phase of agricultural transition^[20], in which rural land contracted operation right shows the large-scale mobility. Along with the expansion of transferred scale and accelerated speed, collective land ownership, namely the right structure of contracted operation right, has been changing silently, forming the “tri-right separation” pattern of collective ownership, contracting right and operation right. As annual central conference on rural work held at the end of 2013 has proposed, “China shall continue to explore the effective implementation forms of rural collective land ownership, to implement collective ownership, stabilize household contracting right and loosen controls on land operation right”. Several Opinions on Comprehensively Deepening Rural Reform and Accelerating Agricultural Modernization, issued in 2014, has supported the proposition of “stabilizing contracting right and loosening controls of

[18] Tang Zhong, 2015, 197-198.

[19] Hu Changming, 2005, 59-60.

[20] Gao Shengping, 2016, 3: “at present, China has entered into agricultural transition phase, featuring significantly increased reliance of agricultural development on finance, featuring high input and cost. However, ‘the unsmooth channel between rural financial supply and demand at present and the ineffective satisfaction of financial demand for rural and agricultural economic development have become one of the most prominent barriers for rural financing and one of the important factors that restrict the development of modern agriculture’. Consequently, promoting the reform on rural financing system and developing rural inclusive finance have become the priority for deepening the reform on rural economic system during the past years.”

operation right” and clearly permitted the mortgage and financing from financial institutions based on land operation right, marking the separation of contracted operation right at the level of national policy. Scholars and experts in economic managerial and land fields have also believed that the separation of contracting right and operation right is the inductive change of the urban-rural integration development, acting as the big discharge of the bonuses for the third-time rural land reform; and confirmed the necessity of confirming the connotation of both rights and legal relations after separation^[21] and to promote the amendment and completion of related laws and regulations.^[22]

IV. CONCLUSION

From a wide view of the evolution of rural land ownership in China, its formation and development is historically rational, full of the features of time and closely related with the political and economic environment, demonstrating the realistic demand and productivity development of the society in various eras. Generally speaking, such a collective ownership system with centralized ownership and decentralized right of use to peasants, in spite of the drawbacks^[23] as ambiguous legal concept of subject for land collective ownership, lack of legal status and weakened benefit with the proneness of public power restriction,^[24] that could

[21] Pan Jun, 2015, 90: “the separation of land contracting right and operation right is new right type, on the basis of unchanged contracting relation, with the separation of operation right from contracting operation right; and the operation right and contracting right are owned by new operator and original operator respectively. The original operator is till the member of collective economic organization that obtains the land contraction operation right. There is no restriction on subject certification of new operator, any personnel willing to and capable of participating in agricultural operation and production could obtain the operation right. After right separation, the nature of contracting right is unchanged as real right for usufruct. The operation right is formed based on the separation of partial power of land contracting operation right, as secondary real right for usufruct with stability and opposability”; Chen Xiaojun, 2014, 5: “the so-called ‘official’ interpretation by experts of policy formulation, similar to “tri-right separation” of farmland rights has overflowed the scope of legal rules, as the assumption replacing legal terms by political terms, which doesn’t match the trend of increasing refined and regulated structure of modern farm land law system and may trigger a series of ‘misreading’ effect.”

[22] Pan Jun, 2015, 89: “how to transform national policies in principle into legal regulations? Does current right structure of collective ownership and contracting operation right completely fail in adopting the farmland transfer? There are no sufficient legal and logical expressions for the separation of contracting and operation rights. We shall use legal language to study central policies, reorganize the past and be based on the current situation, in order to rationalize the economic and political logical expressions for rural land ownership system and provide legal support and guarantee for the new-round rural land reform.”

[23] Xu Yinglan, 2015, 62-63.

[24] Zhang Huilin, 2013, 125: “from the perspective of social benefit, it has been a common phenomenon that ownership is under the restriction of public power in modern society; and the emergence of regulatory takings also exists objectively. Law, as the ultimate and persuasive safeguard of civil rights, shall certainly formulate regulations for such phenomenon and provide relieves for obliges, to avoid the corrupted right from being trapped in legal blank”; Chen Xiaojun, Lu Jian, 2013, 53: “in practice, •

lay the foundation of public ownership for China's socialist system and mobilize the initiative of agricultural production. Just as some scholars have proposed, "this historical transition has shown that rural collective land system is essentially a mode of social organization and a system arrangement inlaid in China's social structure."^[25]

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- the land ownership of peasant collective and other members are prone to be intervened and impaired by public power inappropriately. Hence, it is inevitable to confirm and safeguard the collective land ownership of rural collective economic organizations in legal form as well as subsequent legal and logical land right and interest; and confirm and safeguard the land right and interest of peasants based on collective members' rights.”
[25] Wu Cifang, Tan Rong, Jin Xiangmu, 2010, 27. Quoted from Wang Li Ming, Zhou Youjun: A Discussion on the Improvement of Rural Land Ownership System in China, *China Legal Science*, 2012-1, p. 45.

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