

# Current Situation and Countermeasures of Rural Land Transfer in China under the Background of Separation of Three Powers

Haoran Fu<sup>1, a</sup>

<sup>1</sup>School of Economics, Anyang Normal University, Anyang, China.

<sup>a</sup>hao3681@foxmail.com

## Abstract

For a long time, the country has attached great importance to agricultural development, while rural farmers mostly focus on farming, in which land plays an important role. The emergence of land contracting promoted economic progress during the reform and opening up period. Nowadays, China has overcapacity and the pressure of economic growth is increasing, so it is imperative to transfer land and promote economic development. "Separation of the three powers" is an important measure of land circulation, and the management right is further released. However, there are some shortcomings in the process of land circulation, which need policy assistance. This paper mainly introduces the current situation of agricultural land transfer and its improvement countermeasures.

## Keywords

Land circulation, "Separation of three powers", Status quo; Countermeasures.

## 1. INTRODUCTION

At present, the pace of urbanization in China is increasing rapidly, and many farmers begin to move from rural areas to cities. However, farmers subconsciously do not want to give up their land, so land circulation is particularly important. In the early stage of reform and opening up, land transfer was prohibited in China, and it was officially implemented in 1988, and then it was improved year by year. With the rapid development of China's economy, the land circulation is becoming more and more common, and the scale of land circulation is expanding. With the scale of land circulation increasing and becoming more and more common, the conventional system of "Separation of two rights" of ownership and management rights can not meet the needs of modern circulation. In the practice of agricultural land, it is difficult to separate identity rights and property rights in contract management and there are many limitations in circulation. On the other hand, farmers don't want to have only one way to go, whether they enter secondary or tertiary industries or cities. They still regard land as extremely important. On this premise, they also want to publicize the right to land management. This time, the right to land contractual management is divided into contracting right and management right. In this case, the pattern of "Separation of three powers" began to take shape [1]. The fifth comprehensive deepening reform conference in 2014 marked its formal formation, and it has been continuously improved since then. At present, "Separation of three powers" is not a wish but an important measure to implement land transfer.

## 2. ANALYSIS ON THE CURRENT SITUATION OF RURAL LAND CIRCULATION IN CHINA

Lu Zeyu and Chen Xiaoping (2015) proposed that the current situation of rural land circulation in China is mainly reflected in the speeding up of rural land circulation, continuous growth of land circulation scale, uneven distribution, irregular forms, and diversified management [2]. In China, there have been relevant documents to ensure the rights and interests of farmers. In the late 1970s, the household contract responsibility system was implemented. However, because the laws and regulations at that time did not specifically put forward how to do with the land circulation, there was a lack of guidance. Therefore, the development speed of land circulation is not very fast. However, with the gradual improvement of relevant laws and regulations, China's overall land circulation area has been greatly improved. Although it can not achieve perfection, it has overall changed in quantity, and the form of land transfer is becoming more and more colorful. The current land circulation in China has the following characteristics:

### (1) Increase of rural land circulation area

**Table 1.** Rural land area in China from 2007 to 2016

Year	2007	2009	2010	2011	2012	2013	2014	2015	2016
Area (100 million mu)	0.64	1.50	1.87	2.28	2.70	3.40	4.03	4.47	4.7
Growth rate		41.5%	24.7%	22%	18.4%	25.9%	18.5%	10.9%	0.51%

As can be seen from the table, the land circulation area in 2007 was 64 million mu, and that in 2008 was 1.06 million mu, with a rapid growth rate. This is mainly because in this year, the Third Plenary Session of the 17th CPC Central Committee issued the "decision of the Central Committee of the Communist Party of China on several major issues of promoting rural reform and development", which proposed that the management of land management rights should be strengthened in the process of circulation, so as to make the rural land circulation mechanism more perfect. By 2014, the area of land circulation was 403 million mu, but the growth rate slowed down during the period. However, the growth rate from 2008 to 12 has been slowing down, and the growth rate has been increasing in 2013. The main point is that the No. 1 central document mentioned this year collectively contracted for land, and the land transfer area was 470 million mu in 2016. Although the growth rate has gradually slowed down, the overall growth rate is very fast, with a growth rate of more than seven times in the past ten years [3]. This has a lot to do with our government's continuous introduction of relevant documents and continuous attention to the issues of agriculture, rural areas and farmers.

### (2) Main circulation forms

① Subcontracting is equivalent to the lease of power. For rural land circulation, subcontracting is the lease of contractual management rights within the collective economic organizations of farmers. The ownership of the land management right of the owner who has contracted out the land remains unchanged. The person who accepts other people's land management right has the right to use the contracted land management right, and can accept the profit of the contracted land and pay a certain subcontracting fee to the transferor. It does not need to be approved by the employer, but it is necessary for both contracts to be filed by the employer [4].

② Renting is equivalent to renting our own right to own property to other people, and we get corresponding remuneration from it. When it is used in land circulation, farmers lease the contracted management rights to other people, such as enterprise legal person, farmer organization, etc. The time of lease and the transaction cost are decided by the two, and the ownership of land management right of the Lessor will not change. The income obtained by the lessor in accordance with several years is applicable to the cultivation of greenhouse vegetables and other large-scale agriculture in rural areas. It is not necessary for the contract issuing party to approve the contracted management right of the leased land, but the lease contract should be filed with the employer [5].

③ Transfer is transfer. In the circulation of land contractual management right, most of it means that the contractor transfers all or some of his own rights to others. The main reason is that in the past, the situation of agricultural land in rural areas was relatively serious, and the distribution of land per mu per capita caused a complete land to be divided into tofu pieces, and the ownership was in the hands of different farmers, which was not conducive to agricultural cultivation and weakened the scale management of land. Therefore, with the purpose of improving farming efficiency and exchanging contracted land, some farmers agree with the policy of exchanging contracted farmland between farmers [6].

(3) The scope of the circulation is expanded, but the land distribution is scattered

Due to the importance of agriculture in China, many policies are put forward in favor of agricultural development. Land circulation has changed from wasteland to fertile land. However, although the scope has been expanded, the distribution of land is relatively fragmented, which is not conducive to the overall planning and affects the final income.

(4) Land circulation has obvious regional differences

In the regions with rapid economic development and the central region, the land circulation is relatively fast, but in a few provinces in the western region, many of its land is Gobi desert, etc., with high level of fragmentation, slow speed of land transfer and relatively small scale of land transfer. For example, in 2014, the circulation proportion of Shanghai reached 71.5%, which can be said to be quite large, and Henan in the central part accounted for 37.1%. However, due to the topography of the western region, the circulation is more difficult, which is easy to cause income inequality in rural areas, which is not conducive to the balanced development of society, and is contrary to our goal of narrowing the gap between the rich and the poor. Therefore, we should adhere to the rural land circulation, impartial, equal treatment.

### **3. THE NEW LOOK OF LAND CIRCULATION UNDER THE BACKGROUND OF "SEPARATION OF THREE POWERS"**

China's current separation of two rights system can not provide favorable protection for the "three bottom lines" [7]. On the basis of separation of two rights, "separation of three powers" has relaxed the right of land management and weakened the problems in the process of conversion, which plays an important role in China's agricultural modernization in the new era. In 16 years, General Secretary Xi stressed at the tea party of rural reform in Xiaogang Village, Anhui province that "to liberalize the management right and promote land transfer should be compatible with the progress of rural science and technology and its future urbanization [8]. After the reform of "separation of three powers", the forms of land circulation are diversified, such as joint-stock system, cooperative system and so on. Both sides of land circulation follow the principle of voluntariness, the area of land circulation is increased, the ability of disposal power is strengthened, and the contract right is further refined.

(1) Change the circulation form

As mentioned above, China's current land circulation is mainly transfer, subcontracting and leasing, which are somewhat different under the "separation of three powers".

① Subcontracting and leasing

Under the "separation of three powers", for subcontracting and leasing, the operating entities change, but the contracting entities remain unchanged.

② Assignment

Under the system of separation of rights, the transfer of land is a partial transfer of management rights.

③ Land trust

Land trust is a relatively new way of circulation, which is combined with management rights. Farmers entrust land rights to trust companies in the form of contracts, and trust companies sign contracts with operators, and farmers' income comes from trust companies. There are three ways of farmers' Income: one is from the trust company; the second is the national subsidy policy for farmers; the third is that working in agricultural land can obtain income, and land trust obviously reflects the capital function of land circulation, which is conducive to the sustainable development of agriculture.

(2) Strengthening the management subject's power of disposal

Under the "separation of three powers", land contract right is the replacement of land contractual management right in the current property law, and the right is usufructuary right [9]. Land circulation is consistent with the requirements of the new era. Form independent property rights. Under the right system of "separation of two rights", in most cases, the operator of agricultural land can only obtain the management power of creditor's rights by means of some circulation forms such as subcontracting and leasing. If the main body of management is willing to transfer the right of contracted management of land to other organizations, the basis is as follows According to the contract law, it is necessary to obtain the consent of the agricultural land contractor for his transfer activities. In this case, the property rights and interests of agricultural land of the new land management subject are strengthened [10].

(3) The diversification of land transfer objects and the growth of operation right transfer period

In the practice of rural contracted land circulation, the separation of land ownership, contracting right and management right has become a reality, but there is no summary in theory and no confirmation in policy. General Secretary Xi Jinping was far-sighted and faced with the new situation of power distribution of rural land. In December 2013, combined with the actual situation of agricultural land transfer, he first proposed the concept of "separation of three powers" [11]. Before the "Separation of three powers", the object of land transfer was relatively single. After the "Separation of three powers", rural land transfer can not only be traded to individual, but also transferred to collective. Before the "Separation of three powers", the land management right was transferred from one to two years, and now it has gradually evolved to 10 years, 20 years, 30 years and so on, with a longer period. Therefore, farmers who accept land transfer can invest their time more confidently, promote the development of rural land to large-scale management, and make an indelible step for the national land transfer process.

To sum up, the circulation of rural contracted land has promoted the transformation of rural contracted land from separation of two powers (separation of ownership and contractual management rights) to separation of three powers (separation of ownership, contractual management rights and management rights) [12]. "Separation of three powers" is in line with the development requirements of modern agriculture and urbanization, and is committed to the marginal separation of powers of ownership, contracting rights and management rights. it is confirmed that it is a major reform of rural land property rights system to let each power

execute independently, give play to their unique role, and let farmers transfer land with confidence.

#### 4. UNFAVORABLE CONDITIONS IN THE PROCESS OF LAND CIRCULATION

At present, the land system is facing the situation of "practice first, policy closely followed, law lagging". With the rapid development of social productivity, the land contract management right system which has existed for more than 30 years is no longer suitable for adjusting the current production relations. In order to maintain their livelihood, the land contract management right holders have gone beyond the limits of laws and policies to transfer and dispose of land. The transfer and mortgage of contracted land, which is not allowed by law, appear in different degrees all over the country. In order to prevent the chaos caused by the practice change of land contractual management right, the state began to summarize the practical experiences that are meaningful to farmers from the policy, and then give them their legitimacy and rationality. Under this background, the "separation of three powers" series of policies came into being. However, although China has affirmed the beneficial experience of farmers' practice in terms of policy, due to the lag of legislation, there is still a long way to go for the right of contracted land management to be protected by legislation under the new situation.

##### (1) The standardization of land circulation needs to be improved

Most of the land is transferred spontaneously by farmers, lacking of legal norms, so in the process of transfer, the actual use is not very standardized, and most of the time they do not sign a written contract. Even if some farmers have signed the contract, there will be potential disputes because the contract terms are not specific, the rights, responsibilities, obligations and other matters are not set completely and standardized. A few farmers are lack of legal consciousness and pay no attention to the signed contracts. In the actual operation process, there is no reason to destroy the treaty, so that the rights of operators are questioned, and it is impossible to achieve a win-win situation. Some business households even reported that the multi-year transfer agreement signed with the farmers was in vain, and further negotiation was needed.

##### (2) Land supervision needs to be strengthened

Land circulation can not be abandoned after the transfer. After the transfer, it is still necessary to further supervise the use of land and the rights and interests of both parties, so as to avoid the change of land use. Some people use the cultivated land for seedling planting. When the seedlings are removed, the cultivated land will be destroyed. Therefore, it is still necessary to further strengthen the supervision after the land transfer.

##### (3) Farmers lack the consciousness of land circulation

At present, there are still many farmers who do not know about the matters needing attention in land transfer and the benefits that land transfer can bring to them. They are afraid of losing their own land, and think that land is their own day. Their willingness to carry out land transfer is weak, which is not conducive to the rural land transfer.

##### (4) The circulation market is not perfect

For land transfer, the market is the corresponding transaction intermediary and regulatory agency, which plays an important role in the process of land transfer. Farmers may have had the willingness to transfer, but due to the lack of perfect market, farmers and farmers get inconsistent information, which may delay the process of land transfer. And it will lead to the high cost, can not reach the scale income, the overall resources of land circulation can not be used reasonably, resulting in a certain degree of waste.

## 5. SOLUTION

Through the above analysis, we know that "separation of three powers" proposed to strengthen the rural land circulation. Under the current situation, "separation of three powers" is of great significance to rural land circulation. Although there are still various defects, there is no doubt that as long as we take further actions to reduce the deficiencies, our land circulation mechanism will become more and more mature, and the development prospects of farmers will be better and better.

### (1) Improve relevant mechanisms

To further strengthen the work, promote the land circulation and release the management rights, make farmers take the form of entrusted transfer under the premise of voluntary, improve the land flow resistance mechanism, and require the matters needing attention and transaction costs determined in the signing of the contract to be strictly implemented in accordance with the contract, and the farmers shall issue corresponding systems and regulations to standardize the content of the contract. Only by further regulating and adjusting farmers to strengthen the transfer effect can the land relationship be further stabilized, the rights and interests of farmers be guaranteed, and their autonomy can be improved. Only with the improvement of farmers' autonomy will they be willing to transfer and promote the process of land transfer.

### (2) Further increase government support

For some land transfer households still in embryonic form, the government should increase support. To strengthen the supervision and management of the transfer farmers in the embryonic stage, we should not just give up the circulation, promote the common development of family farms and rural cooperatives, stimulate the ordinary farmers to share the agricultural scale economic benefits, implement the policy of facility agricultural land use, improve the financial credit policy, and strengthen publicity.

### (3) Improve farmers' awareness of land circulation

At present, there may be many farmers who do not know "separation of three powers". We should strengthen the publicity of land circulation, so that farmers can understand the benefits it brings. The leading group should carry out the policies issued by the state to the end, actively guide the farmers to carry out standardized land circulation, establish a relatively strong operational security system conducive to the economic development of farmers, ensure their own interests and speed up the process of land transfer.

### (4) Improve the market system of land circulation

A perfect market system is conducive to the overall coordination of land transfer [13]. In order to establish and improve the land circulation market system, we should perfect the transaction institutions, give full play to the intermediary role, and accurately transmit the information needed by farmers to the farmers, and establish a sound consulting system. We should gradually improve the disadvantages of the market, make the overall allocation of resources play a maximum role, guide farmers' land transfer, and eliminate the "obstacles" they encounter in the process of land transfer.

## 6. CONCLUSIONS

Through the above discussion on the current situation of land circulation in China, the new appearance under the background of "Separation of three powers", and the shortage of land circulation and its solutions, we can draw the conclusion that the implementation of "Separation of three powers" is indeed beneficial to rural land circulation, and the implementation of "Separation of three powers" has made some changes to the form of land circulation, and put forward that land trust is indispensable for rural land circulation at present.



However, there are still some problems in China's land circulation: standardization needs to be improved, supervision still needs to be strengthened, and farmers' awareness of land circulation is not strong. There is a conflict between ownership and management rights, which requires us to improve the land transfer mechanism, increase government support, publicize the land transfer system, lead cadres to play their respective roles, strengthen farmers' awareness of land transfer, serve the people, and actively cooperate to promote agricultural development under the leadership of national policies.

## REFERENCES

- [1] Liu Zhaojun, Li Songze, Research on the Circulation of Farmland under the Rights of "Three Rights Separation" [D] Northeast Agricultural University College of Arts and Law 2018.
- [2] Lu Zeyu, Chen Xiaoping. The status quo, problems and countermeasures of rural land transfer in China [J] Journal of Xinjiang Normal University: Philosophy and Social Science Edition, 2015, 36 (1034): 114-119.
- [3] Qi Zhen, Wei Xinyong. Thoughts on problems caused by rural land transfer [D] School of Public Administration, Southwest Jiaotong University, 2009.
- [4] Shanxi Provincial Department of Agriculture, Shanxi Provincial Department of Finance, Shanxi Provincial Agricultural Research Association Research Group Wang Shuhong, Wu Zhi, Guan F promote Shanxi rural land flow forwarding Song Yanling, analysis of ways to realize rural land transfer [D]. Xinxiang College (Society) Science Edition), 2012.
- [5] Wei Hongyan. Analysis of the problems and countermeasures of rural land transfer [J] Jilin Agriculture, 2018(20): 39.
- [6] Lou Jianbo, "The Separation of Three Powers in the Circulation of Farmland Contracted and Managed by Farmers-A Functionalist Analysis Path", Nankai Journal (Philosophy and Social Science Edition), Issue 7, 2016.
- [7] Xi Jinping delivered an important speech at the Rural Reform Forum in Xiaogang Village, Fengyang, Anhui [http://china.cnr.cn/news/20160429/t20160429\\_522016726.shtml](http://china.cnr.cn/news/20160429/t20160429_522016726.shtml) 2019.6.25
- [8] Ma Jianlin's investigation and thinking on regulating and promoting the transfer of rural land contractual management rights ([D]. Haiyan County Agricultural Economic Bureau, 2007.