# 宋代"系官田产"研究 SONGDAI "XIGUAN TIANCHAN" YAN JIU

姜 密 著

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# 河北师范大学著作出版基金资助出版

### 法制的传统与现代化学术文库编委会

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### 法制的传统与现代化学术文库

### 总 序

肇始于 20 世纪 70 年代末的中国社会变革,正在波澜壮阔地向 纵深发展。这场伟大变革已经并且继续改变着中国社会的面貌,导 引着中国社会的发展方向。就其本质而言,这场变革的目的是要完 成从传统社会向现代社会的历史转型。正是在这一转型过程中,当 代中国法制呈现出创新乃至现代化的趋势,其目标是"依法治国, 建设社会主义法治国家"。

现代化是相对于传统社会而言的,它是一个动态的过程,即从传统社会向现代社会的演进和飞跃,它脱胎于传统社会,又是对传统社会的扬弃。从传统到现代,意味着法律文明价值体系的巨大创新。

一位俄国法学家曾经指出:"通往法治国家的道路漫长而艰难,充满了危险、失误和幻想。许多国家数百年来在奔向民主,有时还为此付出了昂贵的社会代价。法治国家的建设应当以仔细思考的战略和策略为基础。在这里也很难不借助于其他国家的经验,但这种经验应当与本国的传统和现实相结合。"① 这是对人类法制进程及其历史经验的高度概括,我们可以从中得到深刻的启迪。中国法制现代化是中国人在本国历史条件下所进行的一场法律变革运动,有其特殊的历史运动轨迹和独特的发展道路。在中国法制现代化进程中,怎样处理好法制变革与社会发展,法制传统与现代法治,法律本土化与国际化,法律制度与法律意识之间的矛盾关系,是目前中

① [俄] B.B. 拉扎列夫主编,王哲等译:《法语国家的一般理论》,法律出版社1999年版,第337页。

国法制变革所提出的重大课题,是当代法学工作者所肩负的历史使命。正是基于这样的使命感,《法制的传统与现代化》学术文库应运而生了。

《法制的传统与现代化》是一套由河北师范大学法政学院组织编撰的学术文库。河北师范大学法政学院目前拥有一个博士学位授权点、一个省级重点学科、五个硕士学位授权点,近年来在学科建设上取得了长足的进步。本文库的出版,是学院法学专业学科建设的一个重要举措。文库没有严格的主题限制,也不以编辑出版固定的册数为目标。这次被列入文库的专著,大多属于学院新近毕业的青年学者的博士论文。它们包括:张继良博士的《中共人权理论与中国人权立法》,刘云升、任广浩教授的《农民权利及其法律保障问题研究》,张志永博士的《婚姻制度从传统到现代的过渡——1950年至1956年河北省婚姻制度改革研究》,姜密博士的《宋代"系官田产"研究》,张继良教授、王宝治、褚江丽副教授的《公民权利与宪政历程》,赵立新、毕连芳的《近代东亚的社会转型与法制变迁》。

文库的出版,得到了中国社会科学出版社总编辑李茂生先生的 鼎力支持,第四编辑室主任任明先生和有关编辑付出了艰辛的劳动,河北师范大学及法政学院有关领导为文库的写作和出版给予了 大力的支持和帮助。在此,仅向他们致以诚挚的敬意和谢忱。

> 李建强 2004年9月于石家庄

# 中文摘要

众所周知,土地制度是中国古代经济制度中最重要的制度之一,历来为统治阶级所重视,因之也成为治史者攀援的一根藤,循之以寻历史发展之根源。本文试图从制度变迁的角度对宋代"系官田产"这一国有土地制度及其对社会、经济生活的影响进行初步研究。

全文共分六章。

第一章阐述宋代"系官田产"的范围、类型、来源及其产权变动。从广义上讲,"系官田产"等同于"官田",本文取其广义。宋代"系官田产"表现出类型多样化、来源多元化的特点。从所有权的角度看,宋代"系官田产"的类型可分为完全国有的田产(如官庄、荒田、屯营田、公廨田、没官田、河滩沙涂田、监牧地等)、暂时"系官"田产(在一定期限内由国家托管、但所有权仍属原业主私有的逃田)、由私有转为国有的田产(如户绝田产)、国家所有而为官员个人经营收益的田产(如职田)、国家所有而为各地学府使用的田产(部分学田)。

第二章论述"系官田产"的租佃关系。首先论述"系官田产"经营方式的变化,分析变化的原因。通过量化分析,认为"系官田产"经营方式变化的主要原因在于宋朝国家为获得更多的经济收益。其次,在前人研究的基础上,集中地论述"系官田产"的租佃制度的发展。认为在"系官田产"上契约租佃制进一步发展,租赁中将"凭据"称为"契约",体现了人们在商品经济发展中对法制的呼声日益强烈。"二地主"的增多,也使"系官田产"上契约租佃制比唐代更发达,同时,包佃制不是法律所规定的,而是政府对

既定事实的认可。宋代"系官田产"的定额地租剥削高于唐代,选择定额租是为了降低官府的经营成本、规避风险;选择分成租具有发展生产及解决大量浮客的生存问题等社会意义。关于宋代"系官田产"的佃作者,认为与唐代相比,"二地主"的成分增多,由于宋朝划分主客户标准发生了变化,客户的人身依附关系减轻。本章关注了其他学者论述不多的"系官田产"的"抑勒"现象,分析了"抑勒"的原因:主要在于有地却无人耕、官府对高额地租的追求及蠲免制度和赋税征收体制不健全等。认为"抑勒"只出现在一小部分田产上,由"抑勒"而产生的人身依附关系的加重在"系官田产"的租佃关系中不占主导地位。

第三章论述"系官田产"产权的无偿转化和有偿转化。指出在"系官田产"租佃经营过程中,政府为了节省管理费用,也为了鼓励地方农业经济的发展、增加财政收入,在一些地方允许部分田产无偿转化为佃作者的"己业"。其中为"己业"的田产中分为有所有权的和仅有使用权的,政府让百姓出钱购买有使用权的部分才意味着将国有产权完全转化为私有产权。文中论述了宋代出卖"系官田产"的过程及其原因,并对佃权转移做了分析。认为出于经济原因的佃权转移是宋代租佃制度发展的表现,一般来说会促进租佃制度的进一步发展,而强制性的佃权转移——勤佃无疑会阻碍租佃制度的发展。

第四章探讨宋代"系官田产"中"亲邻关系"的变化,从产权关系与亲邻关系相互影响的角度立论。认为当一些私有田产转为国有之后,它们原来的"亲邻关系"并没有消失,政府在租佃或出卖这些田产时,必然面临如何处理"亲邻关系"的问题。从北宋到南宋,与私有田产相比,"系官田产"的"亲邻关系"相对淡化。文中分析淡化的原因,主要在于商品经济下人们对更多经济利益的追求、产权(包括所有权和佃权)不断转换,以及户口不断迁移等。并指出"亲邻关系"的淡化使"系官田产"的佃卖更加自由、频繁、迅速,而这些反过来会更加淡化其"亲邻关系"。

第五章探讨宋代"系官田产"的产权变动与地方政府职能之间的关系。唐朝前期官田一般由国家直接派官员经营和管理,因此在这类土地上,地方州县的政府职能往往表现得不是很明显。到了五代及宋代随着"系官田产"的产权变动(即由私有转为国有、再由国有转为私有),地方政府对"系官田产"的管理职能和经济职能逐步增强,它们在社会经济发展中表现得日益活跃且发挥着越来越大的作用(主要体现在"系官田产"的租佃经营和买卖过程中)。

第六章结语:宋代国有土地上发生的一系列变化(包括经营方式、租佃关系、亲邻关系、地方政府职能等)都与产权制度的变动有关;"系官田产"的产权变动推动宋代社会经济不断向前发展。

**关键词:** 宋代 系官田产 产权变动 租佃关系 亲邻关系 地方政府职能

#### **Abstract**

As we all know, land institution is one of the most important institutions in the ancient Chinese economical system, and it has been paid much attention by the governors. So it also becomes one of the main courses of the history researchers, following which they could find the resource of history development. This paper mainly examines xiguantianchan (系官田产) and its social and economical effects in the Song Dynasty.

This paper is composed of six chapters.

The first chapter introduces the scopes, types, origins and the changes of property-rights of xiguantianchan in the Song Dynasty. In a broad sense, xiguantianchan was equal to state-owned land. The paper uses the broad sense of this concept. The diversification of category and origin was the characteristics of the xiguantianchan. From the point of view of ownership, xiguantianchan in the Song Dynasty could be divided into the following types: entirely state-owned landownership, [such as guanzhuang (官庄), huangtian (荒田), tuntian (屯田), yingtian (营田), moguantian (没官田), shatutian (沙涂田), jianmudi (监牧地), etc.], temporary state-owned landownership (i. e. the land was committed to the country in a certain period, but the ownership still belonged to the pre proprietors), the land that was transformed from private-owned to state-owned (for example the land without heirs), the lands that were state-owned but were managed and benefited by the officers [such as zhitian (职田)], the lands that were state-owned but were used by educational institutes of all levels [such as parts of xuetian (学田)]

The second chapter discusses the tenancy relationship of the xiguantianchan. Firstly, the author analyses the changes of management, and the reasons of the changes. Secondly, on the basis of the research that has been done, the author focuses on the development of the xiguantianchan. The author thinks that on the basis of xiguantianchan, the contractual tenancy system has been further developed. prooof was substituted by contract in tenancy, which reflected the demand for rules and laws in the development of goods economics. With the increase of the double ownership of land, the contractual tenancy institute of xiguantianchan was more developed in the Song Dynasty than in the Tang Dynasty. Baodianzhi (包佃制) was not regulated by law, but was confirmed by the government. The exploit of fixed land-rent of xiguantianchan in the was more severe than in the Tang Dynasty. The purpose of the choice of fixed land-rent was to reduce the cost and risk of the government. The purpose of the choice of shared land-rent was to promote production and to resolve the problem of floating population. Compared with the Tang Dynasty , the renter of xiguantianchan in the Song Dynasty had more double ownership land owners. As the standards of zhuhu (主户) and kehu (客户) had been changed, the personal bonds were reduced. This paper pays more attention to yile phenomena in xiguantianchan, which are not fully discussed by others. The reasons of yile are the followings: there are lands which were not cultivated; the pursuit for more rent by the government; tax-free and tax levy systems were not perfect. The paper believes that yile only existed in a small part of lands, and the severity of personal affiliated in xiguantianchan was not dominant.

The third chapter expatiates on the free and paid transformation of the property rights of the *xiguantianchan*. The author points out that in the management of *xiguantinachan*, the government allowed some land be changed to the renters own land in certain areas, in order to save management fees, and encourage the development of local agricultural economy and

increase financial revenue. At the same time, the government also allowed people buy xiguantianchan. The paper explains the process and the reasons of the sale of xiguantianchan in Song Dynasty, then analizes the transfer of the property rights. The paper believes that the transfer of property rights is the reflect of the development of tenancy systems in the Song Dynasty, which could promote the development of tenancy systems in general, but the property rights transfer of tenancy-Chandian (製佃) would hind the development of tenancy systems.

The fourth chapter treats of the change of the kindred and neighborhoods in the xiguantianchan. And discusses from the effect of property rights and the kindred and neighborhoods. The author believes that as the private land transferred into state-owned land, their original kindred and neighborhoods relationship hasn't disappeared, and the government would be faced with how to deal with this relationship when it rented or sold these lands. From bei Song to nan Song period, Compared with the kindred and neighborhoods relationship in the private lands, the kindred and neighborhoods relationship in xiguantianchan was further reduced. The paper believes that the reasons of the reduction are the followings: people's for more economic benefits under goods economy, the frequent transfer of property rights, and the freer movement of population etc. The paper also points out that the reduction of the kindred and neighborhoods relationship had made the rent and sale of xiguantianchan, more frequent, much freer and quicker, and which in return would reduce the kindred and neighborhoods relationship.

The fifth chapter discusses the relationship between the transformation of the property rights of the *xiguantianchan* and the functions of the local government. During the early days of Tang Dynasty, the centre send directly officials to operate and manage the state-owned land generally, so on the kinds of the land, the functions of the local government show inevidently.

During WuDai and Song Dynasty, along with the transformation of the property rights of the *xiguantianchan* (the private land transferred into state-owned land, the state-owned land transferred into the private land again), the functions of management and economy of local government strengthen gradually, they show actively and bring the more effect into play in the development of society and economic (reflect mainly in the course of rentting-management and transaction of the *xiguantianchan*).

The sixth chapter comes to a conclusion: It happens series of transformation in the state-owned land of Song Dynasty (including the way of management, the tenancy relationship, the kindred and neighborhoods relationship, the functions of the local government, etc), and these changes have something to do with the system of the property-rights; the transformation of the property-rights of the *xiguantianchan* push the society and economic of Song Dynasty forward constantly.

**Key words:** Song Dynasty *xiguantianchan* property-rights change tenancy relationship kindred and neighborhoods relationship functions of the local government

# 序

司马迁自述其治史旨趣,在于"究天人之际,通古今之变,成一家之言"。言简意赅,向为中华良史奉为圭臬。然则,"非知之艰,行之惟艰。"且以"通唐宋之变"为例。中国古代社会于唐宋之际发生了巨大变化,此乃 20 世纪以来中外史家之基本共识。然而若论及唐宋社会变迁的具体内涵及其历史意义,则迄今尚难一致。其中,日本学者内藤湖南于 1910 年提出"唐宋变革论";中国学者侯外庐则于 1956 年提出"法典化"标准,主张唐代的均田制和两税法是中国封建社会由前期向后期转变的标志;胡如雷于1960 年提出从唐中叶到宋代发生了"量变过程中的局部质变,从而使两个朝代显示出了某些阶段性特点",均为颇具影响的宏论。同时,众多学者从文化、政治、阶级、经济等不同层面,对唐宋之际社会变迁进行专题研究,见仁见智,各具特色。总之,唐宋之际中国社会究竟发生了哪些深刻变化,如何揭示这些变化的历史意蕴,题义远未穷尽,犹期望于鸿篇宏旨与知微知彰之作迭出纷呈,争鸣争妍。

姜密女史从余攻读博士学位期间,选择宋代"系官田产"作为学位论文题目,在前辈时贤的学术基础之上,从"系官田产"的来源、经营方式、产权变动及其影响等方面详加探讨,提出了自己的一些见解。其议论之得失,尚待评说,不过其旨趣关乎"通",即欲探究唐宋之际国有土地(包括暂时由国家托管的私有田地)制度变迁的若干问题,为"唐宋社会变迁"这一重大课题的研究添砖加瓦,不失为务实有益的尝试,值得鼓励。

姜密女史的博士学位论文在评审与答辩的过程中得到了诸多唐

史专家、宋史专家的奖掖、批评和指点,这对于作者本人以及身为 指导教师的我,都是有力的鞭策。现姜密女史将博士学位论文修订 梓行,我以为是获得更广泛的批评指教的良机。学无止境,砥之砺 之,日增月进,渐入佳境,后生可畏也。

甲寅之年仲夏陈明光序

# 前 言

在中国古代,土地问题是关系国计民生的重要问题,不管是国家、大小地主,还是普通百姓,都非常重视。国家作为最大的地主,除了从整体上关注土地问题之外,对直接掌握的国有土地也格外关注。本文拟从产权变动的角度探讨宋朝国有土地制度的若干重要问题。

#### 一 学术史回顾

土地制度的问题历来为中国学者所重视,20世纪五六十年代曾作为史学界的"五朵金花"之一备受注目,涉足这一领域的学者颇多,论文繁夥,不胜枚举。这里仅就对唐宋国有土地重要问题的研究,或者持国有土地观点的论述作简单回顾。

在唐代国有土地制度的研究中,哪些土地属于国有土地的讨论较受重视,尤其是关于均田制性质问题,乌廷玉(《关于唐代均田制度的几个问题》载于《东北人民大学人文科学学报》1955 年第 1期)、李必忠(《唐代均田制的一些基本问题的商榷》载于《四川大学学报》1955 年第 2 期)、岑仲勉(《租庸调与均田制有无关系》载于《历史研究》1955 年第 5 期)、韩国磐(《唐代的均田制与租庸调》载于《历史研究》1955 年第 5 期)、胡如雷(《唐代均田制研究》载于《历史研究》1955 年第 5 期)、贺昌群(《汉唐间封建的国有土地制与均田制》,上海人民出版社,1958 年)、吴雁南(《试谈唐代的土地制度和赋税制度》载于《历史教学》1960 年第 2 期)、杨志玖(《论均田制的实施及相关问题》载于《历史教学》