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Research on the Innovation Mechanism of China's Rural Contracted Land Transferring



黄伟



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中国农村土地承包经营权流转政策与法律研究

我国农村土地承包经营权流转机制创新研究

Research on the Innovation of China's Rural Land Contracting Mechanism



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WOGUO NONGCUN CHENGBAODI LIUZHUAN JIZHI CHUANGXIN YANJIU

黄伟 著

责任编辑:高玲

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内容摘要

英国古典政治经济学家威廉·配第曾说过：“土地是财富之母，劳动是财富之父。”在社会生产过程中，土地无疑是最重要的要因。没有土地，劳动力、资本和科学技术等将失去立足之处。皮之不存，毛将焉附？创造财富也将无从谈起。在我国已确定市场经济体制改革的目标下，土地作为最重要的生产资源，必须通过市场机制进行有效的配置，才能发挥最大的作用。同时，土地资源又具有特殊性，特别是农村承包地，其担负着生产、粮食安全、社会保障和农业文化传承功能，单纯地依靠市场机制无法摆脱流转中对经济效益最大化的追逐。而且，在我国处于强权地位的所有者“集体组织”与农民利益之间又会存在不一致，农村承包地流转中农民“被自愿”时有发生。于是，在流转中的“非农化”和“非粮化”屡禁不绝，农民权益无法得到充分保障。这些在阻碍农村承包地流转的同时，也有悖于国家粮食安全的目标。

基于此，本书把农村承包地流转中“机制创新”作为研究的主线，以农村承包地流转的产权理论、市场理论、使用弱势理论和国家粮食安全作为理论基础，以当前农村承包地流转的实践及其考量作为逻辑起点，对流转中的市场、动力、风险与规避及相关配套机制进行研究，并借鉴、汲取各地农村承包地流转的实践经验，以构建健康、有序的农村承包地流转机制。全书力图通过理论与实践的结合，进行归纳与总结、抽象与概括，以期能进行理论上的创新，并指导实践。

本书共四部分7章。主要内容结构如下：

第一部分，是第1章“绪论”。本部分内容主要说明本书的选题背景、研究概念界定、研究意义、国内外相关研究文献综述、研究思路、研究方法与结构安排以及主要创新与不足之处等内容。这部分是问题的提出。

第二部分，是第2章“农村承包地流转机制创新的理论基础与框架”。首先，从市场机制运行中的产权结构来阐述农村承包经营权束，这是农村承包地

流转采取市场机制的必要前提。其次,对农村承包地流转机制中的供求机制、价格机制和竞争机制进行分析,探析这些机制发生作用的机理及它们之间的相互联系与制约关系。最后,从农村承包地流转市场机制管理与规范的目标上论述农村承包地使用弱势理论和国家粮食安全战略。在市场机制运行中,国家进行宏观调控与管理是不可缺少的重要环节,也是市场良性运行的关键。

第三部分,是第3章“农村承包地流转的实践及其考量”。本部分内容包括:①从农业经营规模的扩大、农村剩余劳力转移和二、三产业的发展和村干部的作用上分析农村承包地流转的诱因。②对农村承包地流转的现状从流转模式、流转规模、流转速度和流转去向上进行透视,找出农村承包地流转目前所处的层面,并对总体态势进行判断。③概括农村承包地流转中的困境,并从动力机制缺乏、市场要素不健全、流转风险积聚以及相关配套制度的缺失来分析市场机制运行不畅的原因。

第四部分,是第4、5、6、7章。这四章是在问题提出、理论基础、流转实践和流转不畅等分析的基础上,分别从动力激活、市场健全、风险规避和配套制度完善四个方面来论述我国农村承包地流转机制创新。

农村承包地流转机制创新之一:激活农村承包地流转中的动力。本部分内容首先对农村承包地流转中动力的内涵与构成进行阐述。根据动力作用来源不同,把动力区分为内源性动力和外生性动力两种。其次,从内在动力和外在动力上剖析了动力的影响因素。最后,从以下方面来激活农村承包地流转的动力机制:优化产业结构,大力发展二、三产业;加快小城镇建设,为承包地完全流转农户提供良好的居住环境;强化基础教育,发展职业技能培训;夯实农业农村发展基础,转变农业发展方式。

农村承包地流转机制创新之二:健全农村承包地流转中的市场机制。该部分内容主要论述市场在资源配置中的基础作用,以使农村承包地能按照市场规律的要求流转;并从现代农业发展的规模化、产业化和市场化要求,以及市场机制中主体权能的赋予与客体“物”的具备上对农村承包地流转中的价格机制、供求机制和竞争机制进行分析,其中重点研究的是价格机制。在价格机制中从农村承包地流转中的地租着手,通过对地租影响因素分析,流转年期的合理确定,以及在汲取各地流转中租金计算的基础上,对流转租金模型进行修正。

农村承包地流转机制创新之三:规避农村承包地流转中的风险。本章内容首先从国家粮食安全的角度、承包方和受让方损失和收益的角度对农村承包地流转中的政策风险、市场风险、经营风险和信用风险等进行归类,并分析这些

风险形成的内在机理。然后从以下方面规避农村承包地流转中的风险：保持政策稳定性，制定农村承包地流转法律；加大农业保险的领域，拓展保险的覆盖面；培养现代化农业经营管理人才。

农村承包地流转机制创新之四：完善农村承包地流转中的相关配套制度。这部分内容把农村承包地流转中相关配套制度简括为“一体两翼”。首先，对“一体两翼”内涵进行界定，并分析“一体”与“两翼”的辩证统一关系。其次，从流转农户福祉的视角，论述农村承包地流转中对农民权益的保障，并对当前盛行的“三放弃”模式进行评析。再次，从农村承包地法律保护与用途保护上来论述承包地保护是承包经营权和耕地保护的复合体，同时针对耕地保护政策实施中的变异，提出了承包地保护的路径选择。最后，从农村承包地交易中心的设立与功能、农村土地估价机构的完善、农村承包地流转中法律服务的补白和新型农村金融的构建上来论述如何培育农村承包地流转中的中介组织。

本书力图在借鉴前人成果的基础上，围绕着“激活动力、培育市场、积极引导、完善配套”四个环节来进行机制创新。“激活动力”，是针对农村承包地流转中动力机制缺乏，从流转中内外动力的激活视角，来创新流转的动力机制。“培育市场”，是从承包地流转健康运行所需市场的视角，对流转中所需的市场机制来进行研究。“积极引导”，是突出农村承包地流转中政府的作用，即在农村承包地流转中，政府不是无为，而应是大有作为；政府官员，特别是基层官员应该转变观念，把管理变成服务，为农村承包地流转做好相关的服务工作，并进行积极引导、服务与监督，使流转按照国家提出的协商、依法、自愿与有偿原则和“三个不得”有序进行。在本书中，“积极引导”没有作为一个单独的部分进行论述，而是贯穿到“激活动力”“培育市场”和“完善配套”之中。在某种意义上，“积极引导”的过程又是对进行农村承包地流转全方位服务的过程。“完善配套”主要是从农村承包地流转所需的外部环境的视角来分析。农村承包地的合理、健康和有序流转需要一个良好的外部环境。这种环境包括：土地流转中心、土地评估中心和法律咨询中心的建立，农村社会保障的全面铺开，以及进城务工人员在城市住房和子女教育上的改善等。本书从相关配套机制完善上进行创新研究。

关键词：农村承包地；动力激活；市场培育；风险规避；配套制度

Abstract

“The land is the mother of the wealth, the labor is the father of the wealth,” William Petty of British classical political economist had said. Undoubtedly, land is the most important elements in social production process. If there have not land, labor, capital and science technique will lose its foothold, “without skin, which have hair”, the wealth creating will become impossible. In order to make its maximum effect, the land as the most important production resources, it is necessary to through market mechanism effectively configuration, in which our country has confirmed that the goal of the reform of market economic system. Meanwhile, land resources has particularity, especially rural contracted, its bearing production, food security, social security and agricultural culture inheritance function, simply rely on market mechanism cannot get rid of economic benefit maximization move in the chase. Moreover, there will exist inconformity interests between the power status of owner “collective organization” and the farmers. In the contracted land transferring of our rural areas, “be voluntary” happened from time to tome. Then, “non-agriculture” and “non-food” prohibiting but still happening, the farmer rights cannot fully guaranteed, which not only hamper the contracted land transferring of our rural areas, at the same time, but also contrary to the national food security objectives.

Based on this, the dissertation put the rural contracted land transferring “mechanism innovation” as the thread of study, and property rights, market, use weak and the national food security as theory. With the current rural contracted land transferring in practice and its considerations as a logical starting point, also researching on the market transferring mechanism, dynamic mechanism, risk avoidaning mechanism and related perfection supporting mechanism. And in the study reference absorbing rural contracted land transferring around the experience, in order to build a healthy and

harmonious mechanism innovation policy path of rural contracted land transferring. The paper has four parts, seven chapters, the main content structure is as follows:

The first part, is 1 introduction. This section is the main content in this paper to choose a background, research concept definition, research significance, the domestic and foreign relevant research literature review, thoughts, research method and the structure arrangement, as well as main innovation and shortcomings, etc. This puts forward the problems of dissertation.

The second part, is 2 rural contracted land transferring mechanism innovation of theoretical basis and analysis framework. Firstly, from the market mechanism in the operation of the property right structure, expounded the rural contracted management of rural contracted land bundle, which is necessary to take market mechanism of circulation of premise. Secondly, the rural contracted land transferring mechanism of supply-demand mechanism, price mechanism and competition mechanism, analyzing these mechanisms occurrence function. they are market mechanism of sections, mutual connections between them with restraint, which was composed of market mechanism. Once again, from rural contracted land transferring market mechanism of management and regulating target to discussed that rural contracted land use weak theory and the national food security strategy. It is indispensable important segment in the market mechanism operation and the national macro regulation and management, also is the key of market benign operating.

The third part is 3 rural contracted land transferring practice and considerations. This section includes: The first, the paper analyzed the triggers of rural contracted land transferring from agricultural management with the expansion of the scale of rural surplus labor transfer, second and third industry and the development of village cadres' role. Secondary, seen through the present situation of rural contracted land transferring from transferring patterns and scale, the transferring speed and marketization classy aspects of perspective, and find out the rural contracted land transferring current place level. Thirdly summarized the dilemmas of rural contracted land transferring, and analyzed the market mechanism reasons of lack of operation impeded from lack of motivation mechanism, imperfectly market factors, the transferring of risk accumulation and relative systems.

The fourth part, it is 4, 5, 6, 7 chapters. These four chapter based on the question, theoretical foundation and transferring practice and unsmooth flowing analysis,

respectively, from the power of activation, market mechanism of sound, risk evasion and supporting system consummation four aspects discussed our country rural contracted land transferring mechanism innovation.

Rural contracted land transferring mechanism innovation of one: activated power of rural contracted land transferring. Firstly, this part discussed the power connotation and constitute of the rural contracted land transferring. According to different of the dynamic force of the power source differentiated endogenous motivation and exogenous power. Then, from the inner motive and external power analysed dynamic factors. Once again, from optimizing of industrial structure, developing the second and third industries, accelerating small town construction, providing good living environment for complete the contracted land transferring farmers, strengthening basic education, training vocational skills, solidifying rural development foundation, and changing the agricultural development mode activated the motivation mechanism of rural contracted land transferring.

Rural contracted land transferring mechanism innovation of two: perfecting market mechanism of rural contracted land transferring. The main content of this part used the basic role of the market in resource allocation, In order to make rural contracted land can in accordance with market rules requirements transferring. And analyzed from the modern agricultural development scale, industrialization and marketization requirements, as well as the main body of market mechanism of power, object endowed with angle to the transferring of rural contracted land price mechanism, supply-demand mechanism and competition mechanism, in which the key research was the price mechanism. In the price mechanism, researching start from the land rent, through analyzing the influential factors, transferring time reasonable determination and move in rent around while drawing on the basis of the calculation model, and rent amended.

Rural contracted land transferring mechanism innovation of three: evade the risks in rural contracted land transferring. This chapter content from the first national grain safety standpoint, the contractor and transferee losses and gains from the angle of the transferring of rural contracted land policy risk, market risk, management risk and credit risk analysis, and categorize mechanism of these risks. Then from keeping the stability of the policy, formulate rural contracted land transferring laws, increasing agricultural insurance field, expand coverage, and developing modern agriculture op-

eration management talent up evade the risks.

Rural contracted land transferring mechanism innovation of four: perfecting the relative systems in rural contracted land transferring. This part of the circulation of rural contracted land relative systems summarized as “a body, two wings”. First of all, to “one body, two wings” intension define, and analyzing the “a body” and “the two wings” dialectical unity. Then, from the angle of transferring peasant household welfare discussed on farmers’ rights safeguard, At the same time to the current prevalent “three give up” mode are also elucidated. Once again, from rural contracted land legal protection and utilization and conservation up discussed the contracted land protection is the compound of cultivated land protection, considered the variation of cultivated land protection policy implementation, puts forward the contracted land protection route choice. The fourth, from rural contracted trading center of the establishment and function, the perfection of rural land appraisal organizations, rural contracted move in legal services to the filler and the construction of new rural financial up discussed how to cultivate intermediary organizations of rural contracted land transferring.

This dissertation tried hard from the results on the basis of previous person, a-rounding “activating the power, the cultivation of market, actively guide, perfect supporting” four links to mechanism innovation. In view of rural contracted move in dynamic mechanism, “Activating power”, this article from the transferring of the lack of internal and external force angle, to activate the motivation mechanism of innovative transferring. “The cultivation of market”, was research from contracted land transferring healthly required for the operation of the market, which was needed in the market mechanism to carry on. “Actively guide”, was prominent the role of government in rural contracted land transferring. The government is not inaction, but should be a promising. Government officials, especially grassroots officials should change the idea, take management into service, for the rural contracted land transferring keep relevant service work, and actively guide, service and supervision system, in accordance with state proposed principle and “three not” to orderly. In this paper “actively guide” not as a single part to discussion, but through to activate the power, the cultivation of market and complete set in. In some sense, and actively guide of the process was also for rural contracted transferring all-round service process. “Complete set system” was mainly from rural contracted transferring needed the external environment of rural con-

tracted come up analysis. The reasonable, healthy and orderly circulation needs a good external environment. This kind of environment included land circulation center organization, land evaluation center, the legal consultation center, the rural social security system and processes in urban migrant workers housing, education and various security system, etc. This article research from the angle of mechanism perfection of these supporting mechanism of innovative.

Key words: Contracted land in rural areas; Motive activate; Market growing; Risk avoidancing; Supporting system

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1 绪论

1.1 选题背景与意义

农村承包地不仅是农民最基本的生产资料，而且是最基本的生活保障。^①自 20 世纪 80 年代以来，随着二、三产业的发展，农业机械化水平的提高和农村劳动力逐渐向城市转移，农村承包地流转趋势逐渐加快。但是，我国农村承包地流转同经济改革一样，都是从诱致性开始，致使农村承包地流转中存在着一系列的问题，如流转市场机制没有发挥、农民流转意愿和行为不强、流转动力不足、农民合法权益不能有效保障、相关的配套服务跟不上等。这些问题都影响着农村承包地健康、有序地流转。

1.1.1 选题背景

中国经济发展中面临诸多困惑，如应选择什么样的发展模式？应如何满足“居者有其屋”？怎样才能解决居民的看病难问题？如何解决社会的公平和正义？笔者没有选择这些课题，而是选择了与“三农”问题最为相关的农村承包地流转机制作为研究对象，是基于以下几个方面的背景：

1. 发展现代农业需要生产要素达到优化配置

我国农村实行家庭联产承包责任制初期，充分调动了农民的生产积极性，对改革后农业的发展起到了重要作用，其对经济的贡献率达 46.89%，相当于全部要素投入贡献的总和。^②农业单产与总量都得到极大提高。但随着时间的推移，一家一户的小农经营模式显露出其自身无法克服的弊端：农业基础设施

① 杜受祜，刘世庆. 社会主义市场经济体制的建设 [M]. 成都：四川人民出版社，2001：198.

② 侯风云. 我国农村体制改革的成就、问题与对策 [J]. 管理现代化，1997（6）：32.