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〈寄稿論文：国際会議——東アジアにおける公共政策の課題〉

A Study on China's Rural Land Transfer Policy in the Process of Urbanization from the Perspective of Punctuated-Equilibrium Theory

Wang Linlin

Abstract

China's rural land transfer policy has changed dramatically over the past several decades. The policy process is not linear, but is defined by the dual and contrasting characteristics of stability and dramatic change. This paper introduces punctuated-equilibrium theory as a critical lens to examine China's rural land transfer policy in the process of urbanization, and finds that the interaction of policy venue and policy image are the main factors causing dramatic changes. China is a transitional country and the needs of farmers and shifts from local practice to central decision-making as well as policies related to land transfer should be taken into consideration in the context of policy venues. Social environment, development strategy and policies side effects all have an important impact on the policy image.

Keywords : Rural Land Transfer Policy; Punctuated-Equilibrium Theory; Policy Venue; Policy Image; Land-Use Right; China

Introduction

China's dual land tenure system is defined as land ownership separate from land-use rights. Based on the Constitution of People's Republic of China (PRC), land in the cities is owned by the state, while land in the rural and suburban areas is owned by collectives, except for those portions belonging to the state in accordance with the law. The Household Responsibility System (HRS) was established in 1978 to allow for the distribution of arable land to individual farming households through contracting with the village collective. Under the current land tenure system, rural land transfer is short for land management contractual rights transfer, however the scope of rural land transfer can further narrowed by the usage of the land. Rural land is defined as cultivated land, forestry

land, grassland, and land for other agricultural uses as stipulated in the Rural Land Contracting Law (RLCL). The RLCL also includes several principles in the rural land transfer, including: provisions that collective ownership of agricultural land cannot be changed; exercising equal consultation, voluntariness, making compensation; the nature of the contracted land and its use for agriculture shall not be altered; and the term for the circulated contract shall not exceed the surplus of the duration of the contract already concluded. According to related laws and regulations, rural land transfer can be defined as a market behavior to transfer or transact the use right of agricultural land without changes in usage within an effective contracting period.

The past 35 years in China's rural land polices includes prohibited phase, permitted phase and en-

couraged phase. The policy process is not a linear evolution, but defined by the dual and contrasting characteristics of stability and dramatic change. For a time, public policy research was dominated by incrementalism, which describes policy as a smooth process with marginal or incremental accommodation. In China's case, however, incrementalism can no longer be adopted. Land transfer policy over the past 35 years has been experienced at least three times in dramatic changes or punctuations. Dynamics, rather than statics, characterized this area. Thus, this paper introduces an appropriate punctuated-equilibrium model to explore the causes of China's rural land transfer policy changes.

Theoretical Perspective: Punctuated-Equilibrium Theory

Over the years, various studies have produced theories regarding policy progress. The approaches of these studies fall into two categories: (1) stages heuristic approach based on the principal of incrementalism; and (2) non-linear evolution policy process approach, consisting of separate theory models, such as the punctuated-equilibrium theory. Until the mid-1980s, the most influential framework for understanding the policy process, particularly among American scholars, was the stages heuristic. It is the most dominant approach in public policy research field of China, as well. The stages approach outlines policy-making as a linear problem solving process that is rational, balanced, objective, and analytical.¹ In the stages approach, large-scale departures from past policies and dramatic changes in policies cannot be understood and explained. While both stability and changes are important elements of the policy process, scholars propose a second nonlinear theory policy process approach to encompass both.

Punctuated-equilibrium was initially advanced as an explanation of the development among species, or

speciation.² Rather than changing smoothly and slowly like the Darwinian models, evolution and speciation were characterized as near-stasis, punctuated by large-scale extinctions and replacements. Similar replacements are also displayed in policy processes. Authors Baumgartner and Jones analyzed a variety of U.S. policy-making cases over time and found that interaction between policy image and policy venue exacerbated punctuations. Policy image is defined as understanding and discussing a policy. It is a mixture of empirical information and emotive appeals. Policy venue is the institutional locations where authoritative decisions are made concerning a given issue.³

The interaction between policy image and policy venue can be divided into policy subsystems and macro politics. Typically, issues are handled in parallel within subsystems and within their communities of experts. However, parallel processing does not rule out change, but allows for a politics of adjustment with incremental change resulting from bargaining among interests and marginal moves in response to changing circumstances. When dominated by a single interest, a subsystem is the best policy monopoly with fewer changes. Yet, policy monopolies are not infinitely secure, they can be constructed and collapse. Due to non-monopoly interest group's propaganda or other reasons, the citizens or governmental institutions may change their attitudes towards one issue, from indifferent to intervene actively. With the intervention of new policy participants, the former issue is refined and asked for changes.

As pressure for change builds and support for policy image grows, a new dimension of the debate becomes more salient with the parallel processing and subsystem broken down. Refined issues are raised to serial processing system in the context of macro political by newly established interests. When an issue area is present on the macro political agenda, small changes in the objective circumstances can cause large changes in policy. Baumgartner and Jones refer

to this situation as positive feedback. Negative feedback maintains stability in a system, most evident in parallel processing with subsystems, while positive feedback exacerbates impulses for change. This overcomes inertia and produces explosions or implosions from former states.⁴ At this point, policy change occurs and new policies for institutional structures are created. The policy system is then returned to its equilibrium until the next unpredictable change.

The Evolution of China's Rural Land Transfer Policy After 1978

Prior to the Communist Party of China (CPC) coming into power, the political party gained support for a revolution with the promise of land for farmers with little or no land of their own. After the founding of New China in 1949, CPC continued to allocate massive rural land to tenant farmers by the land-to-tiller programs in order to gain their support for the new regime. In the early years of the new nation, private individuals owned both the land and the use rights. In the mid-1950s, the collectivization campaign was launched and individual farming was prohibited. Land ownership shifted from private ownership to public ownership, meaning ownership and use right were both charged by the People's Communes. In 1978, several peasants signed a contract with local cadres who secretly allowed them to farm in Xiaogang Village in Anhui province. The secret experiment proved to be very successful. In spite of this, the Third Plenary Session of the 11th Central Committee of the Communist expressly opposed Mao's communes by encouraging the spread of HRS; the system was adopted officially after leader Deng Xiaoping openly praised these experiments in 1980. To Further Strengthen and Improve Several Problems of Agricultural Production Responsibility System was issued by the CPC in September 1980 and affirmed production concentrated to each household.

HRS policy has rapidly expanded since then and individual farming households were granted land-use rights to ensure their sustained interest in farming and its related investments.

Although village collective allocated land-use rights to individual households via contract under HRS, land transfer remained illegal. In the 1982 Constitution, Article 10 stated that no organization or individual might appropriate, buy, sell, lease land, or otherwise engage in the transfer of land by unlawful means. In addition, Article 80 of General Principles of the Civil Law regulated that land may not be sold, leased, mortgaged, or illegally transferred by any other means. In 1986, the Supreme People's Court's judicial interpretation regarding contract disputes of rural land ruled that transfer agreements were invalid without the contract-issuing party's permission. The issuing party, namely the village collective including collective economic organizations and village committees, is the owner of rural land. During this period, land management contractual rights were partial or limited because farmers did not have the ability to use the rights as they saw fit. Farmers viewed rural land as the only productive resource to make a living, rather than an asset. Economist Hernando de Soto referred to the agricultural land that has been greatly depressed because of the insecurity of land rights and legal restraints as dead capital⁵.

In 1984, the No. 1 document was issued by the central government and permitted rural land transfer, under certain conditions, for the first time. At the beginning of HRS, the land contract was from two years to three years, causing frequent land adjustments. This document of 1984 urged local officials to prolong the contractual term of land-use rights and avoid unnecessary adjustments. Meanwhile, farmers who turned to non-agriculture business or were not able to cultivate land could transfer their contracted land to others if approved by the village committee. With the rural-urban labor migration, No. 1 central docu-

ment of 1986 encouraged farmers to transfer small arable lands to big grain production households to cultivate appropriate scale agricultural production. Though land transfer was mentioned in these two policy documents, the legitimacy of agricultural land transfer was not officially acknowledged until April 1988 in the constitutional amendment Article 10. The amendment stated that the right to land use could be transferred according to law. However, at that time, other means of circulation, such as lease and transfer, were banned, except subcontract. The report of Third Plenary Session of the 14th CPC Central Committee indicated that the use term could be extended for an additional 30 years after the 15-year term referred to in the 1984 document had expired. In addition, the contract and management rights of exploration programs could be inherited and rural land-use rights could be transferred with compensation. In 1994, lease, exchange, and other means were admitted by the central government in the Document No. 16.

In 2001, the Notice Concerning Rural Contracted Land Transfer (Document No. 18) claimed that land transfer was the objective requirement for rural development. Following this, the Ministry of Agriculture issued a document reemphasizing land transfer as significant to protecting farmers' rights, promoting the development of agriculture and rural economy, and maintaining rural social stability. Additionally, the report of the 16th Party Congress indicated that where conditions permitted, the transfer of the contractual right of land could be carried out according to law and on a voluntary and compensatory basis to develop systematic scale operations. From 1984 to 2002, land transfer was legitimized in China and farmers could rent, exchange, or subcontract their land for efficient production.

In 2003, the Rural Land Contracting Law was issued by the central government and laid the legal foundation for land transfer, establishing the rural

land transfer institution. On March 1, 2005, Regulations on Transfer of Rural Land Management was issued by the Chinese Agricultural Ministry, which was more detailed than previous laws. Following this, Chinese local governments established different agricultural land transfer systems pursuant to their situations. Three years later, the Decision of the Central Committee of the Communist Party of China on Several Big Issues on Promoting the Reform and Development of Rural Areas was issued by the Third Plenary Session of the 17th CPC Central Committee, and suggested a need to take further steps to establish, perfect, and strengthen land contract management transfer to develop appropriate-scale management. This document encouraged the development of professional investors, family farms, farmer's cooperatives, and other main-scale operations, if conditions permitted.

The No. 1 central document of 2009 stated that voluntary and remunerative principles would be upheld and the leading role of farmers in land circulation would be respected. Localities with the appropriate conditions were encouraged to develop circulation service organizations to provide services to both transfer sides on information exchange, legal consultation, price evaluation, contracting, and the settlement of disputes. Moreover, the Law on the Mediation and Arbitration of Rural Land Contract Disputes, issued in 2010, provided legal safeguards to settle disputes over contracted management of rural land, maintaining the legitimate rights, and interests of the parties.

As a prerequisite of the protection of farmer's land-use right, household registration system was stressed in the No. 1 central document of 2013. It emphasized the need to process the registration and certification of land-use right over the next five years. That same year, a reform master plan approved by the Third Plenary Session of the 18th CPC Central Committee promised to give rural residents more property

rights and allow the sale, lease, and demutualization rural construction land, with a number of restrictions. During this period, land would no longer be a means of production, but become a farmer's main asset to possess and transact. For farmers, land management contractual rights became more credible after receiving written documentation.

Causes for Changes in China's Rural Land Transfer Policy

Authors Baumgartner and Jones argue that the punctuated-equilibrium theory of public policy is driven by two interacting forces: (1) the institutional context of issues (policy venues); and (2) how issues are portrayed (policy image). Following the reform, China's rural land transfer policy consisted of three phases: (1) prohibited phase (1978–1984); (2) permitted phase (1984–2002); and (3) encouraged phase (2002–present). The changes from one phase to another can be explained by the interaction of policy venues and policy images.

Policy Venues in a Transitional Country

Policy venues focus on institutions or groups in societies that have the authority to make policy decisions. The categories and forms of policy venues were on state forms. American federalism creates a number of distinct and partially autonomous venues for policy action. In the United States, decisions are made by Congress, executive branch officials, the courts, local government, private investors through the stock and bond markets, businessmen, and by consumers. In China, under the unitary political system, policy issues became closely associated with particular levels of government or institutional venues. Using land policy as an illustration, the Chinese Communist Party Congress is the party and nation's real policymaking institution. The National People's

Congress, the organization of supreme power, exercises the legislative power of the state to enact land management laws as well as other laws concerning land issues. The Ministry of Land and Resources of the People's Republic of China is responsible for the protection and rational utilization of natural resources, such as land, mineral, and marine resources. At the local level, China established sub-provincial (not including province level) vertical management system, namely a land management agency of a town (or district) is the county (or city's) land management resident agency. Sub-county (or city) level government is empowered to create their overall plans for land utilization but to submit it to the upper level government for approval.

The types of policy venues are limited and concentrated under a unitary system. It is not commonplace to see issue assignment shifts from executive agencies to congressional control under China's political system. Furthermore, the shifts between different policymaking institutions and the shifts driven by public attention from subsystems to macro politics are difficult to identify. China is historically a large agricultural country and by 2012, there were more than 650 million people living in rural areas. Agriculture, rural development, and farmers (three rural issues) are always among the top concerns of the Chinese Government. As one indispensable part of these issues, rural land policy has been maintained in the political macro-level since the establishment of HRS. No. 1 central document refers to the first policy document of a year, issued by the CPC and the State Council, the Cabinet. The first No. 1 central documents were issued from 1982 to 2014 and contained 16 documents targeting rural issues. The No. 1 central document of 2014 stated that China should deepen rural land system reform and improve rural governance.

Although the context shifts of punctuated-equilibrium theory are not evident under China's unitary sys-

tem and government-led economic development pattern, it cannot be denied that there is movement from local governments to central governments in the evolution of policy. Rural land transfer has emerged spontaneously since the implementation of HRS in 1982. HRS distributed farmland to individual households equally based on the degree of soil quality, which may cause one household have several scattered lands. Farmers exchanged their contractual land in private to integrate their lands and cultivate more easily. Driven by the needs of farmers, the central government allowed land transfer within collective organizations under several specific circumstances in 1984.

China's reform demonstrates the Chinese characteristics of individualism and experimentalism. In the early stages of reform, rural land transfer was not admitted or encouraged. For a time, most farmers transferred their land-use right via oral contract based on trust without written agreements or legal procedures with the means of circulation not clear. A number of farmers did sign contracts; however, the contractual format and content were not legal, leading to many land disputes. In fact, as early as 1987, the central government set up experimental areas of rural reform in the No. 5 document. Afterwards, Jiangsu, Nanhai, Pindu, and other provinces or cities were selected and assigned with different experimental themes, with 21 pilot sites. Similar to the role of Shenzhen in the first stage of reform, these local experimental areas were aimed at providing experiences and references for the central government to make decisions; they also spread the unknown risk of the rural reform. Although these reform experiments were at the local level and mainly instructed by local governments, the successes were written into the policy documents and laws on the central level. For example, Meitan city, located in the Guizhou Province, was selected as the first experimental area for rural land reform. It developed the basic principle of

Rural Land Contract System that in order to maintain existing land contract relationships over the long-term, collectives do not add newly contracted land to added populations or take away old contracted land from decreasing populations. This principle was adopted by the central government and added to the Law on the Contracting of Rural Land in 2002. Meitan, Nanhai, Chengdu, and Chongqing also shaped their own land transfer model.

Related policies such as HRS can also be regarded as policy venues. Land-use rights includes separating the ownership and is the prerequisite to the land management contractual right transfer, namely, land transfer policy relied on the land ownership policy. In the early years of new China, rural lands were owned by individual farmers who had the right to transact or transfer their lands. After 1956, rural land became publicly owned and the land-use rights were dictated by the People's Communes. In 1978, HRS was secretly created by peasants in Xiaogang Village; it did not spread nationwide. In the landmark document of reform policy issued in 1978, HRS was banned by explicit order. Opponents based on the principles of two whatever's⁶ regarded HRS as a product of capitalist private ownership that damaged socialist public ownership of the means of production. It was not until the No. 1 central document was issued in 1982 that HRS was officially permitted, with land management contractual rights as an outcome. Therefore, it was not unusual that land transfer use rights were banned in the early stages of reform.

Punctuated-equilibrium theorists studied a number of issues, including nuclear power, urban problems, smoking, and car safety, to test their theories under a federal state. China is a transitional and unitary state and local governments and related policies should be considered in the context of policy venues. Under government-led economic development pattern and single-party political system, the ruling party, rather than the media, executive branch officials,

and other institutions are the primary policymakers. Moreover, as a component of the three rural issues, rural land policy was related to the party and country's survival. Rural land transfer policy has been dominated the macro-political system, but local governments in experimental areas will be empowered to make policy decisions according to their own conditions. As a result, central government may change the policy based on the experiments and lessons learned from local experiments.

Policy Images as Portrayed by Social Environment and Development Strategy

Policy images may be accepted or rejected, depending upon the institutional arena in which they are raised. Using pesticides as an illustration, the agriculture committee in Congress is more likely to view pesticides as a method to increase farmers' profits, while an environmental group is more likely to focus on the negative health effects. In a transitional and developing country, policy images may also be affected by the development strategy and social environment.

China's reform began in the countryside and achieved its initial success in 1984. From 1979 to 1984, crops value increased 42.3%, with 19.8% specifically because of HRS.⁷ Following this, the CPC shifted their attention from the countryside to cities and embarked on urban reform. One may question why policymakers chose to fund one issue rather than the other. Salisbury and Shepsle⁸ used a simple model to explore the answer to this question. The person in question might be an elected official, a lobbyist, or a staff member. The key element is that they must choose the issues on which to spend their time, resources, and energy. They might prefer to work on issues that have a chance of success rather than on those that are not. This can also explain China's rural land transfer policy. Land transfer was banned in the

early stages of land reform in 1978 and was then permitted in No. 1 files of 1984s. Though the transfer of rural land was allowed in the policy system, the land transfer market was kept nascent. Policymakers are bound by rationality, meaning they make policy decisions in serial patterns. Under China's transition, every development stage has different themes, such as emancipating the mind, seeking truth from the facts; efficiency comes first, balances fairness, and Scientific Outlook on Development. Guided by the principle of efficiency comes first, rural-urban balanced development, with the protection of farmers' land right, was easily neglected.

Policy side effects are an important factor in causing policy change. Boundary rational assumes that policymakers are only focused on one aspect, or one dimension of a policy, and are not able to consider all effects of policy, including side effects. However, when new attributes such as the side effect are salient, substantial change is possible. The Chinese government's long-term strategy tends to give priority to the development of the urban economy, resulting in an increasing gap between the cities and countryside. In the meantime, HRS pushed the agricultural economy back to a small-scale peasant economy, resulting in a number of unwanted rural labor force and reducing the scale effect of farming. Policymakers shifted to another aspect of the policy: how to change the policy to minimize the risk of side effects.

Changes in the social environment have brought about changes to the image of land transfer policy over the past 35 years. In the early era of reform, farmers who participated in contractual land exchange aimed to cultivate their land conveniently. Since the mid-1980s, numerous villages and township enterprises have sprung up, and a large percentage of agricultural labor became employed workers, causing massive arable land desertion. Contracted land became an unnecessary burden for farmers who worked in the township enterprises. To achieve their

assigned task of grain production, village collectives collected deserted land and transferred it to big production households without charging rent. The result was a passive image of land transfer in the mid-1980s.

With industrialization and urbanization came a change in the main source of farmers' incomes. Over 26 million rural people worked in non-agricultural sectors with roughly 16 million migrant workers working outside their counties, and over three million leaving their county with their entire family.⁹ The move into the cities resulted in the reduction of farming labor supply and the changing the role of land in farmer's lives. Farmers not only live on the lands, but also participate in service, manufacturing, and other industries. A nationwide survey conducted by Rural Development Institute (RDI) in 2008 revealed that nearly 48% of respondents reported that over 80% of their cash income came from non-farming work.¹⁰ The findings demonstrated that farmers could boost cash income by working outside of the farm. Considering the development paths of South Korea and Japan, the move from agricultural production to non-agricultural production was inevitable during urbanization.

In China, however, this move had different meanings. Due to the urban-rural dual system, farmers working in the cities had little chance to settle down and change their identity (*hu kou*). Agricultural migrant workers were not able to enjoy essential public services like education, medical care, and nursing. As a result, the generation ranging in ages 18 to 45 years often left their villages, driven by considerable revenue in cities; the elderly, women, and children remained in the countryside and become the main agricultural labor force. Along with the change of social environment and growing consciousness of urban-rural disparity, the image of land transfer changed for both policymakers and policy recipients. For farmers, contracted land became their most important asset because of urban expansion and relia-

ble unemployment insurance when they lost their jobs in the cities. For governments, rural land transfer became the effective path to increase rural incomes, reduce rural-urban disparity, ensure food security, and maintain social stability.

Conclusion

China's rural land transfer policy has changed dramatically over the past several decades. After the reform, China's rural land transfer policy underwent changes in three phases: (1) prohibited phase (1978–1984); (2) permitted phase (1984–2002); and (3) encouraged phase (2002–present). In 2003, the agricultural land transfer system was established. According to the Rural Land Contracting Law, land-use rights can be transferred through subcontract, rent, exchange, assignment, or other means. China's land transfer changes can be explained using the punctuated-equilibrium theory and by the interaction of policy venue and policy image. China is a unitary country under transition, rather than a stable and federal country. Thus, there are additional factors should be considered in the interaction of policy venue and policy image, such as the needs of farmers, the local innovation and central decision, and the related policies. Moreover, the social environment, development strategy, and policy side effects have an effect on the policy image, also leading to policy change.

Note

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- 3 Frank Baumgartner & Bryan D. Jones (2009). *Agendas and Instability in American Politics*, The University of Chicago Press, Chicago and London, pp.32.
- 4 Frank Baumgartner & Bryan D. Jones (2009). *Agendas and Instability in American Politics*, pp.20.
- 5 Hernando de Soto (2001). *The Mystery of Capital*, Fi-

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- 6 Two Whatevers (liang ge fan shi) refers to the statement that "We will resolutely uphold whatever policy decisions Chairman Mao made, and unswervingly follow whatever instructions Chairman Mao gave."
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