

The current situation of China's land system

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China's land is divided by ownership: State-owned and collective-owned. According to the relevant provisions of the Constitution and the Land Management Law, China implements agrarian socialist public ownership—ownership by the whole (the state) and collective ownership by the working people. Article 10 of the Constitution provides that the land in the city belongs to the state and the land in the rural and suburban areas belongs to the collective-owned except those that belongs to the state by law.

I. The land is divided by purpose: agricultural land, construction land and unused land.

The land utilization control is one of the main contents of China's land administration. The state provides that the land is divided to agricultural land, construction land and unused land depending on the purpose. The government plans and manages the land utilization, which draws up the overall plan and annual plan of land utilization, strictly restrains the agricultural land into construction land, controls the total construction land and specially protects the arable land. According to the statistics of the Ministry of Land and Resources in 2008, the area of China's agricultural land, construction land and unused land was 6.57 million, 0.33 million and 2.7 million square kilometers , accounting for 68.4%, 3.4% and 28.1% respectively. Among the agricultural land, arable land accounted only for 18.5%, forest land and grassland in total accounted for 74.7%, and other kinds of land (aquiculture area, facility agriculture land, etc.) accounted for 6.8%.

Table. Areas of each land (2008)

	area (million square kilometers)	%
Agricultural land	6.57	68.4
Construction land	0.33	3.4
Unused land	2.7	28.1

Table. Composition of agricultural land (2008)

Agricultural land	%
Arable land	18.5
Forest land	74.7
other	6.8

II. The nature of ownership affects the range of use rights

The control of land utilization affects the range of use rights. Besides, the current China's legal system has established the principle that the land ownership determines the range of the land use rights and has made many restrictions on the scope of the use rights of collective-owned land.

We divided the land into six types by the above two cross-classification: state-owned agricultural land, state-owned construction land, state-owned unused land; rural collective-owned agricultural land, rural collective-owned construction land, rural collective-owned unused land.

Table. Land type

State-owned	Agricultural land
	Construction land
	Construction land
Collective-owned	Agricultural land
	Construction land
	Construction land

III. The defects of China's land system

Based on the above division, the range of use rights of all kinds of land, conversion pathways and national regulations of the land market can be summarized as follows:

i. The range of land use rights of collective-owned agricultural land is smaller than that of state-owned agricultural land. China's state-owned agricultural land is mainly distributed in the state-owned farms. The authorities of state-owned farms are responsible to manage the land delimited or expropriated by the government and have the rights of possession, use, contract award, transfer or lease and mortgage. The land can also be used as the share of joint venture and cooperative enterprises.

Collective-owned agricultural land is used for agricultural production in the form of household contract inside the rural collective-owned economic organization. The law provides that it can be transferred through subcontract, lease, exchange, be assigned or other ways in addition to independent contract management. The Resolution of Third Plenary Session of 17th CPC (2008) adds the way of cooperative shares to transfer, but there are still gaps with the scope of the use rights of state-owned agricultural land.

ii. Land use control is achieved by index control. The protection of arable land has been elevated at the height of "related to the national overall development and the safety of national survival", which has become the starting point and objective of the design of land management system. The method is to control the total amount of construction land, implement special protection for arable land, strictly protect the basic farmland, counterbalance the arable land occupation and reclamation & development, and keep dynamic balance of the total amount of arable land in the provincial area.

iii. The utilization of collective-owned land has been more limited. Besides agricultural use, collective-owned land can only be used to set up township enterprises, rural residential housing construction (Rural household can only own one house site, which area shall not exceed the standard set by provinces, autonomous regions and municipalities) and the construction of public facilities and public welfare in the village or town. The land size is also strictly limited.

iv. Collective-owned land is generally refused entry into the construction land market. Township enterprises can transfer the use rights of construction land due to bankruptcy, mergers and other situations. Except that, the use rights of other collective-owned land can't be sold, assigned or leased for non-agricultural construction.

v. All units and individuals who need to use land for construction must apply for state-owned land by law.

vi. The state-owned construction land has complete primary and secondary markets. The use rights of state-owned construction land can be obtained from the primary land market through free administrative allocation and market-oriented approach (bidding, auction, listing, etc.), which can be legally assigned, leased, mortgaged or used for other economic activities in tenure of use.

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