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Law Absence and System Construction of Equal Material Assistance Rights of Farmers in China

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Abstract Firstly, conception of farmers' equal material assistance rights is introduced from the aspects of equal rights, material assistance rights, and farmers' equal material assistance rights. Value function of farmers' equal material assistance rights is pointed out, which can eliminate the partial policies with urban priority orientation. It is a necessary condition for maintaining the legal and institutional authority, as well as an inevitable choice to realize the social justice and harmony. Current status of the law absence of farmers' equal material assistance rights in China is introduced, which is reflected in the lack of theoretical research on farmers' equal material assistance rights in the law circle, the lack of procedural legal system of farmers' equal material assistance rights at present, and the lack of actual law effectiveness of farmers' equal material assistance rights at present. System construction is a turning point to change the law absence of farmers' material assistance rights. Government should promote the economic development, provide material bases for the system construction of farmers' material assistance rights, enhance the legal consciousness of farmers, cultivate the ability of farmers to participate in equal material assistance rights, strengthen the procedural legislation and judicial justice, and ensure the farmers' material assistance rights.

Key words Farmer, Equal material assistance rights, Law absence, System construction, China

The equal material assistance right of farmers is an important economic right of farmers in China. However, due to the existence of dual economic structure, farmers are in an unequal position when sharing the community resources, so that equal material assistance rights of farmers prescribed by the law become a mere formality. Realization of the equal material assistance rights of farmers does not come up to expectations, such as the lack of specific procedural rules. The urban-rural dual economic structure directly causes the unequal material assistance rights between urban and rural residents, which is reflected in both the practical environment and the legislation level^[1]. Therefore, to realize the farmers' equal material assistance rights, farmers should have equal opportunities as the urban residents in practice. And more importantly, system construction and optimum allocation of social resources should be carried out in order to ensure the fully realization of the equal material assistance rights of farmers from the aspect of legal system.

1 Conception of the equal material assistance rights of farmers

The urban-rural dual economic structure sets a tremendous obstacle for the survival and development of farmers. When constructing a harmonious socialist society and new socialist countryside, a rational choice for the socialist target is to realize the equal material assistance rights of farmers. Therefore, studying on the equal material assistance rights is of great theoretical and practical significance to accelerating the process of urbanization in China and to constructing the new socialist cou-

ntryside and harmonious society.

1.1 Equal rights Equality is the basic content of human civilization; and equal rights is a fundamental rights of citizens stipulated by China's Constitution. Citizens shall have equal rights, which is not only the value ideal of law, but also the lofty goal of human society. Aristotle analyzed and defined the conception of equal rights for the first time. After that, scholars carried out explanations about equal rights from different dimensions in various works. Theoretical explanations of equal rights indicate that scholars' recognitions have the limitations of the times, that is, the conception and value of equal rights are affected by the social background of the times. Based on this, that citizens shall have equal rights stipulated by China's Constitution is a conception which keeps pace with the times and is closely linked with the background of social development in China at present. Article 33 of the Constitution regulates that all citizens of the People's Republic of China are equal before the law; and the state respects and safeguards human rights. Article 34 regulated that all citizens in the People's Republic of China who have reached the age of 18 have the right to vote and stand for election, regardless of ethnic group, race, sex, occupation, family background, religious belief, education, property status or length of residence. According to the regulations of the Constitution of China, equal rights include all aspects of economy, politics, culture and social life. Citizens shall not be treated differently because of any external distinction. At present, during the construction of new socialist countryside and harmonious socialist society, it is of direct and profound legal significance that citizens enjoy equal rights in economy, politics, culture and social status.

1.2 Material assistance rights Article 45, paragraph 1 of the Constitution regulates that citizens who are disabled, at old age, or lost the ability to work have the right to obtain material

assistance from the state and society. Material assistance rights is an important human rights stipulated by China's Constitution. It is in fact a social security by taking the form of financial assistance for the citizens who are old, disabled, lost their jobs, encounter disasters, or face problems in life. According to the content of material assistance rights, it only refers to the material assistance from the state and the society in order to improve the condition of disadvantaged people, which is an important form of the assurance of human rights. If the survivor completes the self-realization of survival rights through the form of working—property—survival, some special main bodies have their own realization mode of survival, that is material request—state help—survival^[2]. In modern society, due to the problems left over from history and the profound social changes, there are some disadvantaged groups in the social competition, so government should establish some relief or compensation mechanisms to make up social differences and to realize the essential equity and equality. Currently, although material assistance rights have been written into the Constitution of China, specific laws and regulations are still needed in order to ensure the effective realization of the rights.

1.3 The equal material assistance rights of farmers The main body of equal material assistance rights is the farmer. In China, the problem of farmers is the core and essence of the "Three Agricultural Problems"; and the protection of the interests of farmers is the key to the problem of farmers. According to the theoretical connotation of equal material assistance rights, once citizens in China have livelihood problems, they have the rights to obtain material assistance and relief. In detail, the equal material assistance rights of farmers refers that, according to the relevant laws and regulations, farmers have an equal right to share material assistance and interests help related to materials provided by the state, in order to ensure the fundamental rights of farmers in participating in social life as other citizens in China. This reflects not only the formal equality, but also the substantive equality. However, affected by the urban-rural dual economic structure for a long time, social security mechanism varies in urban and rural areas of China; and the social security for urban residents is significant superior than that of rural residents. Farmers, who constitute the overwhelming majority of China's population, hope to enjoy the equality policies as the urban residents, so that they can have the equal rights of national resources allocation reasonably. Compared with the urban residents who have subsistence allowances, medical insurance, unemployment insurance, pension insurance and other material assistances, farmers become a "second-class citizens" to a certain extent, and endure the injustice of "non-national treatment"^[3], which is inconsistent with the essence of the Constitution of China that citizens shall have equal rights. Laws and regulations are the institutional assurance for farmers' equal participation in social development and equal share of social rights. Under the strategic background of constructing new socialist countryside and promoting the coordinated development of urban and rural areas, system construction should be taken as the driving force to realize the

integration of natural rights, legal rights and practical rights of the farmers' equal material assistance rights.

2 Value function for the farmers obtaining equal material assistance rights

In the 1950s, the state strictly limited the transfer of rural population to urban population, which was a systematic extinction of the equal rights of farmers in material assistance, social welfare, education and employment. Thus, the rights mechanisms for the survival and development of farmers were eliminated. According to China's Constitution, citizens shall equally enjoy the material assistance from the state and the society, so as to obtain equal survival and development rights as other citizens. At present, since China is constructing a new socialist countryside and harmonious socialist society, it is of important value function to make farmers obtaining equal material assistance rights from the construction of the legal system.

2.1 Eliminating the partial policies with urban priority orientation The household registration system under dual economic system is an identity gap between the urban and rural residents. Urban residents enjoy the social security and social benefits significantly better than the rural residents. According to the relevant laws, all citizens in the People's Republic of China have equal rights and obligations; and there shall be no differences in the allocation of interests due to the residence, occupation, education degree, birth status and other external differences.

With the reform and opening up and the acceleration of social transformation, differences in dual household registration system are gradually diminishing. However, affected by the partial policies with urban priority orientation in the early years after the formation of new China, the social welfare and social security attached to dual household registration system still exist; and rural residents lost their rights of equal distribution of social resources in actual social life. As both of the land security and family security of farmers are gradually weaken, the state should establish a set of feasible laws and regulations in order to provide a reliable policy to protect the equal material assistance rights of farmers, to offer material compensation to the farmers who are in the poor position of social competition, and to ensure the farmers' equal development opportunity and the equal material assistance.

2.2 A necessary condition for maintaining the legal and institutional authorities in China In modern society, many countries, especially the developed countries, take providing material assistance rights as a basic right. After the formation of new China, the four Constitutions have all regulated the equal material assistance rights of farmers, showing the care for the disadvantaged groups. It can be said that China is no inferior to western developed countries in legislation. In the view of laws, rural and urban residents share the equal rights of material assistance, but in fact, there lacks the specific procedural norms for the farmers to enjoy the equal material assistance rights. As a part of citizens, farmers have suffered all kinds of discrimination in enjoying rights and resources allocation, which

also reduces the authority of the Constitution.

Realization of the equal material assistance rights of farmers has been clearly defined in the constitutional level, but its implementation still needs some feasible and procedural laws and regulations, so as to promote the realization of the equal material assistance rights of farmers in practice. Realization of the equal material assistance rights of farmers is a transfer from the natural rights to practical rights of farmers, which is realized by the construction of legal system. During this process, the equal material assistance rights of farmers has changed from the extensive principles to specific provisions, so that the interest and right protection of farmers is more operable. Thus, the Constitution can be implemented in practice; and the authority of the laws in China is maintained.

2.3 An inevitable choice for the realization of the social equity and harmony In the early years of the foundation of the new China, due to the urban-rural dual economic structure, farmers could not enjoy the equal rights as urban residents; agriculture and farmer supported the industry and urban areas but got no corresponding rewards, so that farmers lost their opportunities for self-development. Thus, the social injustice was caused, as well as the disharmonious development between urban and rural areas. With the development of socialist market economy and the reform of household registration system, there is more freedom in the transfer of rural population. A lot of farmers work in cities, so that the land security and family security of farmers gradually lost its essential meanings.

Differences in dual social structure have far-reaching influences in China, which will not be disappeared in short term. And it is necessary to establish an effective security mechanism to promote the farmers sharing the equal social rights. In actual life, farmers are lack of smooth benefits expression mechanism, so that farmers' interests can not be ensured effectively^[4]. When constructing a harmonious socialist society, the problem of farmers has already become an important issue affecting the economic development, national stability and social harmony. Realization of the equal material assistance rights of farmers indicates the equal allocation of social resources, reflects the equal rights of farmers, and shows the uttermost social equity and harmony. Since the farmer is a social group occupying the majority of the population, realization of the equal material assistance rights of farmers is of great significance to the social equity and social harmony.

3 Current condition of the law absence of farmers' equal material assistance rights in China

Realization of the equal material assistance rights of farmers plays an important role in the construction of a fair social system and a harmonious socialist society. However, according to the actual situation in China, realization of the equal material assistance rights of farmers does not come up to expectations. Particularly, due to the lack of theoretical researches and procedural laws and regulations, system protection is lacked in the equal material assistance rights of farmers.

3.1 The lack of theoretical researches on farmers' equal material assistance rights in the law circle Equal rights is a dynamic concept of development, with different meanings and significances in different times. Therefore, farmers' equal material assistance rights also has its new theoretical value with the connotation of the times. Establishing socialist new countryside and harmonious society is an important historic opportunity for realizing the farmers' equal material assistance rights. Therefore, the realization of the equal material assistance rights of farmers should be combined with the actual development of China, so that benign development of farmers' rights can be formed. However, limited by the closed theoretical system, most of the researchers only take the farmers' equal material assistance rights as a mode to realize the equal rights, and are engaged in the theoretical research on the connotations and values of equal rights. This kind of theoretical research in fact only realizes the equal rights of farmers formally, but neglects the profound significance of farmers' equal material assistance rights in practical environment. It is widely known that theory is the leader of practice and the commander of the acts. Therefore, the lack of theoretical researches on farmers' equal material assistance rights in the law circle will inevitably leads to the lagging practice, as well as the ineffective enjoyment of farmers' equal material assistance rights in actual life.

3.2 The lack of existing procedural laws about farmers' equal material assistance rights Realization of farmers' equal material assistance rights a complex and systematic project, needing to establish supporting procedural rules to ensure the orderly and stable operation in practice. However, there is no unified provision about material assistance rights, and they are distributed in many provisions. Besides, material assistance rights is not regarded as the individual rights^[5]. The lack of existing procedural laws is the basic reason for the irrealizable equal rights of farmers' material assistance. After the foundation of new China, farmers lost their equal social rights and benefits at the starting point due to the urban-rural dual economic structure, as well as the dual household registration system and other systems based on this. With the development of market economy, the law circle began to pay attention to the equity and equality, and encouraged to establish a system of fair competition. The procedural legislation is still weak in recent years, although there are many theoretical researches, and practical application of laws and regulations on the equal development rights of farmers. The equal material assistance rights of farmers is operated dynamically, and can be realized by the redistribution of social resources, the adjustment of interests, and the construction of system. Due to the lack of existing procedural laws, the equal material assistance rights of farmers can not be realized in China at present.

3.3 The lack of actual effectiveness of existing laws about farmers' equal material assistance rights According to the Constitution, farmers shall enjoy the equal rights as urban residents. However, realization of farmers' equal material assistance rights becomes a mere formality at present in both legislation and jurisdiction. There is no practical equal division

of national resources and social benefits, and the farmers' equal material assistance rights written in the Constitution is in an embarrassing situation and can hardly be implemented. Although there is no unified provision about farmers' equal material assistance rights in China, the Constitution and other laws regulated the various material assistance rights of farmers. However, in the actual operation, farmers usually can not enjoy their specific rights. The Constitution should be implemented and the equal material assistance rights of farmers should have procedural norms, and operable laws and regulations. Based on the laws to abide by, everyone should abide by the law, so as to realize the substantive equality and the farmers' equal material assistance rights finally.

4 System construction to solve the problems in the law absence of farmers' equal material assistance rights

4.1 Promoting economic development; providing material bases for the system construction of farmers' equal material assistance rights The economic base determines the superstructure. And the strength of the economic base directly determines the perfection of system construction. In the narrow sense, content of farmers' equal material assistance rights is limited in the material assistance and relief. Without the strong economic strength, there will be no equal material assistance rights of farmers. Since the reform and opening up, both economic strength and comprehensive national strength have been increased in China, which has laid a solid material foundation for the realization of farmers' equal material assistance rights. Based on this material foundation, citizens who are disabled, at old age, or lost the ability to work have the rights to obtain material assistance from the state and society. As the majority of citizens, farmers should equally enjoy the equal rights of material assistance. However, China has a large rural population; and most farmers have relatively weak material bases and low living standard. Only when the state has strong material strength, can we meet the needs of farmers. In recent years, although there has been considerable economic and social development, requirements of farmers for equal material assistance rights still can not be met. The social wealth should be increased in order to realize the equal material assistance rights of farmers in relatively rich forms and great degrees.

4.2 Improving the law awareness of farmers; cultivating farmers' ability in participating in equal material assistance rights With the implementation of socialist new countryside construction and the coordination of rural and urban development, policies partial to cities, which are established in the early years of the foundation of new China, are gradually eliminated; and the farmers' consciousness of protecting their right to equal development rights is gradually strengthened. The key to realize the farmers' equal material assistance rights is the improvement of farmers' legal awareness and rights awareness, in order to ensure the farmers' equal opportunities for survival

and development. In the modern law society, the qualification rights should be entitled to the main subjects by the mode of law, in order to ensure the equal opportunities of farmers to participate in social development^[6]. In general, rural residents have relatively low cultural quality, relatively weak understanding, mastery and utilization capacities. Besides, affected by the historical factors, the formation of legal consciousness of farmers is restricted. Improvement of farmers' legal consciousness is to enhance the farmers' awareness and understanding of rights protection, so that farmers can find out a way of relief when their interests are violated. Therefore, we should enhance the legal consciousness of farmers in China, cultivate their leading abilities, and make them have the law motivation and requirements of the equal material assistance rights.

4.3 Strengthening the specific procedural legislation and judicial justice; effectively ensuring the realization of farmers' equal material assistance rights The life of law lies in its specific implementation in actual life. The most perfect law in theory will become a dead letter without the effective implementation and compliance. Generation of the effectiveness of law depends on the reasonable content, the overall effectiveness of legal system, the basic system of the country, the national management and operation system, and the concept of people^[7]. The transfer of farmers' equal material assistance rights from natural rights to practical rights should work out specific procedural rules under the overall planning of constitution, so that farmers can obtain specific forms of expression for equal material assistance rights. When their rights and interests are violated, there will have judicial remedies and procedures. During the realization of farmers' equal material assistance rights, we should establish the institutional system and operational mechanism covering the process of urbanization, eliminate the unequal social rights attached to dual household registration system, and provide the system protection for farmers' equal material assistance rights.

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