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Problems and Solutions of Protecting Rights and Interests of Land-expropriated farmers during Urbanization——A Case Study of Henan Province

CHEN Jian*

School of Economics and Management, Xinyang Normal University, Xinyang 46400, China

Abstract This paper discusses existing problems in protecting rights and interests of land-expropriated farmers' during urbanization, such as those farmers' failure to obtain benefits from land increment, difficult employment and imperfect social security system. Reasons for losses of farmers' rights and interests mainly include defects in land management and expropriation system, and uncoordinated development of urbanization and industrialization. However, the basic reason is urban and rural dual economic structure. On the basis of these situations, it puts forward solutions to protecting rights and interests of land-expropriated farmers: let land-expropriated farmers share land-increment benefits from land marketization; establish effective employment security system and perfect social security system, to make land-expropriated farmers share supply of public goods equal between rural and urban areas, and realize the inclusive growth balancing urban and rural areas.

Key words Land-expropriated farmers, Land compensation, Employment, Social security

Since reform and opening up, China has entered the rapid development period of urbanization. According to statistics, for each percentage point addition of urbanization, there will be 10 million rural people losing land, then it expedites the emergence of a huge group, land-expropriated farmers. Farmers losing land will lose various guarantees, such as living, employment and retirement. How to protect rights and interests of land-expropriated farmers becomes new challenges faced by government in the new period. All parts of the country have made hard exploration and gained precious experience, but the problem of protecting rights and interests of land-expropriated farmers is not solved fundamentally. Henan Province is a large agricultural province with large population, so it can provide some helpful experience and enlightenment for solving problems of protecting rights and interests of land-expropriated farmers during urbanization.

1 Problems of protecting rights and interests of land-expropriated farmers

1.1 Monetary allocation: farmers' failure to obtain land increment benefit due to low compensation standard At present, the major way of compensation adopted in land expropriation in Henan Province is monetary allocation, or specifically providing direct economic compensation for land-expropriated farmers. According to 45 reports issued during January to October of 2010 by Henan Provincial People's Government for approving land expropriation, the price of land expropriation is generally 0.375 million to 1.17 million yuan/ hm^2 , and the ma-

jority is in the range of 0.6 million to 0.75 million/ hm^2 . However, the amount distributed to farmer households is basically less than 80%, the rest will be reserved by township government or village community.

The compensation standard for land expropriation is not consistent with "actual value" of land. The current compensation standard for land expropriation adopts Article 47 of the *Law of Land Administration of the People's Republic of China*, "the maximum subsidy for resettlement for cultivated land requisitioned per hectare shall not exceed fifteen times of the average annual output value in the three years prior to the requisition; the total of land compensation fee and subsidy for resettlement shall not exceed thirty times of the average annual output value in the three years prior to requisition of the land". For example, if the average annual output value in the three years prior to the requisition is 22 500 yuan/ hm^2 , the compensation fee shall not exceed 675 000 yuan/ hm^2 . Besides, land expropriation fails to consider location and supply-demand situations of land, as well as application and market value, so this is extremely unreasonable. Government takes the expropriated land to market for auction, the value will be multiplied and greatly higher than the compensation amount for farmer households. For example, in 2010, the land compensation in western new area of Kaifeng City is 825 000 to 1 050 000 yuan/ hm^2 , while the average auction value is 8 250 000 yuan/ hm^2 , showing an increase of seven times after commercialization. Nevertheless, such seven times of profit fails to reach hands of farmers. Only a little is used for infrastructure construction, a larger part is taken by government as financial revenue, and the compensation for farmers may only satisfy farmers' basic living.

1.2 Employment: there is still no fundamental change of difficult employment and no effective employment protection mechanism for land-expropriated farmers In the course of urbanization, once farmers' land is expropriated,

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* Corresponding author. E-mail: chenjian127@yahoo.cn

some of them will be inevitably changed to landless and jobless farmers without income, which is extremely easy to result in social chaos. Henan Provincial Government always stresses employment security of farmers. To solve basic living and long-term livelihood of land-expropriated farmers and safeguard their lawful rights and interests, in accordance with *Notice of the General Office of the State Council on Relaying Opinion of the Ministry of Labor and Social Security for Instructing Work on Giving Occupational Training and Social Security to Farmers Whose Lands are Expropriated* (General Office of State Council No.29 of 2006), Henan Provincial Department of Labor and Social Security, Henan Provincial Department of Land and Resources, and Henan Provincial Department of Finance jointly issued the *Opinions on Providing Employment Training and Social Security for Land-expropriated Farmers* (Henan Labor and Social Security No. 19 of 2008) in 2008, and took the land-expropriated farmers into the unemployment registration system and urban employment service system. Government at all levels also makes relevant exploration in accordance with local conditions, to provide employment guidance, vocational training and job introduction services. In general, it adopts the principle of "land user responsible for arranging jobs", so jobs of some land-expropriated farmers are provided by land users. For example, among the 17th batch of land for urban construction of Shangqiu City in 2009, the land users arrange jobs for 117 persons, amounting for 22.4% of the total farmers who need job arrangement^[1], but this proportion is not high. Since farmers have low educational level, they generally have to be engaged in transportation, handling, cleaning and security jobs. Such jobs offer small wages and are not stable, so there is still a big gap between farmers' expectations of "citizen treatment". Therefore, the situation of difficult employment is not changed fundamentally. Financial departments at all levels allocate partial funds to provide vocational skill training for land-expropriated farmers, but those farmers do not have great enthusiasm for participating such training. In addition, there is no effective employment security mechanism for land-expropriated farmers by now.

1.3 Social security: current rural social security system fails to attract land-expropriated farmers and no perfect social security system yet Henan Provincial Government attaches much importance to social security works, and has formulated document *Henan Labor and Social Security No. 19 of 2008* to provide opinions on pension system, medical care, unemployment and minimum living security system. For example, in land-expropriation scheme approved by Henan Provincial Government in October of 2010, Yucheng County, which has the lowest social security compensation, reaches 63 000 yuan/ hm²^[2], and the highest one is Zhoukou City (132 000 yuan/ hm²)^[3]. Those play a certain positive role in safeguarding living of land-expropriated farmers.

However, in the implementation, there are many problems. In the first place, the social security compensation is too low. From existing documents, it is known that the social security compensation for 135 000 yuan/hm², which is put into individual

account of farmers' social security fund for individual payment part of farmers' pension. The payment criteria = monthly receiving amount \times 12 months \times 15 years, so the payment criteria has a positive correlation with receiving amount. Although the proportion of farmers paying is generally not higher than 30%, farmers can only draw 100 to 200 yuan each month after they are 60 years old. From this point of view, the social security compensation provided by government is too low, and it only guarantees the minimum living of land-expropriated farmers. What's worse, under the influence of expected inflation, many farmers want to receive social security compensation directly. In the second place, current social security policies mainly provide endowment insurance for land-expropriated farmers, so it is just "living guarantee" system, not or less involve education, medical care and unemployment and other security measures or the implementation effect is minimal. There is still a long way from the "social security" with equality, welfare and mutual assistance as essential features. For land-expropriated farmers, there is still no perfect and effective social security system.

2 Analysis of reasons for losses of farmers' rights and interests

2.1 Defects in land management and expropriation system are major reasons for problems of protecting rights and interests of land-expropriated farmers For historical reasons, China adopts public ownership of the means of production, including state ownership and collective ownership. For the land owned by the state, laws clearly stipulates that government exercises the ownership on behalf of the state; for collective land, there is not such stipulation, however, the ownership only belongs to the collective and individual farmers do not enjoy the ownership. As a result, the subject of ownership is not clear and definite, then the effective management and supervision land owners can exercise become virtual accordingly. Consequently, virtual essence of subject of collective land ownership leads to vacancy of ownership of collective land^[4]. At this policy background, individual farmers contracting collective land will only enjoy right of use, and income right, but no right of disposition and ownership. Therefore, in the transaction of collective land, farmers are passive and will certainly be in disadvantageous position. In the real land expropriation, collective land may not be sold at free market until it is sold to government and becomes state-owned land. In this situation, government monopolizes purchase and sales of land market, individual farmers have no right of pricing in the transaction of collective land, so they have to accept price fixed by government. Then, the compensation price for rural collective land will be not high, and its value will be greatly lower than that at the free market. It proves that defects in land management and land expropriation system are major reasons for land-expropriated farmers' failure to receive protection of rights and interests.

2.2 Uncoordinated development of urbanization and industrialization is a major reason for problems of protecting rights and interests of land-expropriated farmers The ur-

banization course in developed countries indicates that the urbanization is the result of industrialization, so the urbanization should move forward along with progress of industrialization, rather than through artificial intervention^[5]. However, there is Forging Ahead Strategy in the development of urbanization in China. It spent just 30 years in reform and opening-up, while the western capitalist countries took over 200 years. Compared with western countries, China's urbanization level is uncoordinated with industrialization level. The urbanization level exceeds industrialization level. In other words, the improvement of urbanization level is not based on constant increase of jobs provided by industrialization, and many cities do not have enormous capability of receiving employment. As a result, many land-expropriated farmers fail to obtain adequate and effective employment. China's urbanization has turned into "land urbanization", rather than "farmers really becoming citizens". At the same time, due to uncoordinated development of urbanization level and industrialization progress, land-expropriated farmers fail to enjoy various social welfare facilities, public goods and services as other citizens, leading to problems of protecting rights and interests of land-expropriated farmers.

2.3 The urban and rural dual economic structure is the basic reason for problems of protecting rights and interests of land-expropriated farmers Due to historical reason, China implements dual economic structure of separate administration of urban and rural areas for a long time. In this economic structure, it adopts city-oriented strategy with agriculture supporting industry and rural areas supporting urban areas. Objectively, this leads to big gap between countryside and cities, and issues concerning agriculture, farmers and rural areas can not be solved fundamentally. In recent years, Henan Province has made great efforts in solving the problem of urban and rural economic structure, but the long time accumulation effect and "path reliance" make the dual structure still exist. Currently, it is mainly manifested in unbalanced supply of education, medical care, pension and employment. Farmers contribute cheap land and labor forces for industrialization and urbanization, but they fail to obtain value-added profits of land market, nor obtain adequate social security. In other words, there is no complete change of distribution policy and system biased towards cities, so land-expropriated farmers fail to enjoy achievement of reform, but have to bear cost of urbanization and industrialization, which is obviously unfair. The urban and rural dual economic structure is the basic reason for problems of protecting rights and interests of land-expropriated farmers.

3 Solutions to protecting rights and interests of land-expropriated farmers

3.1 Perfecting the property system of rural collective land to let land-expropriated farmers share land-increment benefits from land marketization As to reform of property system of rural land, there are two types of opinions in China. One is adhering to nationalization of rural land, and the other is privatization of rural land. The dispute of these opinions is increasingly intense along with expansion of urbanization and

problem of protecting rights and interests of land-expropriated farmers. In fact, the key is not public or private, collective owned, or state-owned. In stead, it lies in the ability of implementing property right. In other words, the key lies in the income right and right of disposition^[6]. However, the existing institutional arrangement makes collective land ownership incomplete, and farmers do not have the right of disposition. Government has to turn the collective land into state-owned land in simple administrative means. In fact, this is unequal transaction of property right.

Therefore, it is required to perfect relevant laws to ensure integrity of property right of rural collective land and equality of property right of state-owned land, to narrow the gap of benefits resulted from duality of these two types of property right. The key is to providing farmers with the right of disposition of collective land. This right of disposition is not the right to dispose collective land at will. It is just to provide farmers with more discourse right when their land is expropriated, instead of the unfair and administrative order in the past. Without changing land application, nature and planning, the right of disposition can raise farmers' position in the negotiation with government or other parties during land transaction, and negotiate at the price close to or equal to price at the land market. This will avoid the problem of too low land pricing, and make land-expropriated farmers share benefits of land value increment.

3.2 Creating employment opportunities and establishing effective employment security mechanism for land-expropriated farmers China's urbanization course is the course of turning farmers into urban citizens. The key to achieving this purpose is to solve their employment, especially those whose land is expropriated. It is also the implication of urbanization to create employment opportunities and establish effective employment security mechanism for land-expropriated farmers.

To begin with, government should make efforts to provide job opportunities for land-expropriated farmers. At the present, on the basis of the principle of "land user responsible for arranging jobs", government should take the opportunity of industrial stricture adjustment, carry on the industrial transfer between eastern and western areas and between developed and less developed areas, develop the labor-intensive industries with low access threshold and low technical contents, and preferentially provide jobs for land-expropriated farmers. At the same time, government should encourage land-expropriated farmers to actively participate in various types of export of labor services, to expand their job opportunities in foreign countries.

Next, government should strengthen the construction for information disclosure system of labor market. Government should enhance information service of labor market, establish the information disclosure system of labor market, smooth the channel between farmers and labor market, and promptly disclose demand information of labor market, and solve the problem of information asymmetry.

In addition, it is required to strengthen construction of labor training system. Most land-expropriated farmers have low educational and skill level, so they have great difficulties in finding

jobs. Therefore, it is required to establish and perfect education and training mechanism, to improve their scientific and cultural quality, enhance their labor skills, and create conditions for finding jobs. Government should also arrange different trainings according to educational level and ages of farmers, and provide more jobs for land-expropriated farmers as far as possible. Meanwhile, government should strengthen its support and allocate special funds to subsidy education and training of land-expropriated farmers.

Finally, it is required to create institutional environment favorable for employment of land-expropriated farmers. Government should respect farmers' spirit of creation, abolish institutional obstacle to their employment, and create the institutional environment to encourage and support farmers' employment and starting an undertaking. For example, it is proposed to perfect laws and regulations of labor market, safeguard lawful rights and interests of farmers, let land-expropriated farmers have equal status with citizens in household registration system, their children receiving education. Besides, it is necessary to establish employment management system in accordance with urban and rural construction requirement. For those land-expropriated farmers who prepare to start an undertaking, government should provide preferential taxation and financial support, and set up reemployment support fund for land-expropriated farmers. Furthermore, it is recommended to integrate urban and rural employment market, perfect employment service facilities, and establish integrated, equal and orderly urban and rural employment market system, in the hope of promoting smooth flow of land-expropriated farmers between countryside and cities.

3.3 Raising social security standard and perfecting social security system for land-expropriated farmers In developed countries, the general method is to set up social security fund and establish perfect social security system for land-expropriated farmers. This is favorable to reducing risks faced by those farmers and promoting social stability and development. Currently, in the course of China's urbanization, it is urgent to establish perfect social security system for land-expropriated farmers.

In the first place, it is required to set up special account of social security fund for land-expropriated farmers and constantly raise the social security compensation standard. Fund raising plays a key role in development of social security. To make the raised fund smoothly provide various types of security for land-expropriated farmers, the practice of social security system must satisfy following conditions: fund raising method must be suitable for local economic conditions; fund raising channels must be smooth and diversified; and the raised fund should be able to satisfy demands of social security. If the fund raising channel is not smooth, the capital source will be unstable, the social security for land-expropriated farmers will not be implemented, and multiple-level security and assistance will not be carried out^[7]. To guarantee capital source, government should

set up special account of social security fund for land-expropriated farmers, guarantee specific fund for specific purpose and ensure that the fund can meet the demand of land-expropriated farmers for social security. In this situation, government should increase inputs in social security fund and constantly raise the social security compensation standard for land-expropriated farmers in accordance with economic development.

In the second place, government should perfect the basic old-age pension system for land-expropriated farmers. This includes improving levels and quality of the endowment insurance system, raising the standard of receiving the endowment insurance and expanding the coverage of endowment insurance.

Besides, government should perfect the basic medical insurance system for land-expropriated farmers. These farmers should be allowed to participate in basic medical insurance for rural residents or medical insurance for urban residents. Government, collective and individual jointly pay insurance premium and share risk. And at the same time, it is required to expand the reimbursement scope and raise the compensation ratio for medical insurance of land-expropriated farmers.

At last, it is required to establish and perfect unemployment insurance and other security systems for land-expropriated farmers. After those farmers are urbanized, government should incorporate them into the scope of unemployment insurance for urban employees, make them enjoy such security as unemployment insurance, and provide them equal treatment as real citizens.

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