

Legal Contents and Applied Legal Principles of Rights to Undertake to Manage Farmlands in China

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Summary

In China, as the basis of agricultural and village policies, rights to undertake to manage farmlands have played important roles since Reform and Open Policy began.

In relation to rights to undertake to manage farmlands, this paper at first arranged the process of changes of farmland undertaking system, then made clear the legal contents of rights to undertake to manage farmlands and elucidated the actually applied legal principle of such rights.

The legal contents of rights to undertake to manage farmlands are including two kinds of rights, one is "a right to undertake farmlands" as an individual from a village group, the other is "a right to use farmlands and to earn and so on" as a party of the undertaking contract, and "a right to undertake farmlands" as an individual is more essential.

Because Chinese land possession system is even at present based on the socialist land possession system affected by laws of Soviet Union, rights to undertake to manage farmlands are needed to be harmonized with the legal principles of the socialist land possession system. The legal principles actually applied to rights to undertake to manage farmlands are not the principle of free contracts between equal parties, and are ones of administrative managements of the village land system, which are mainly based on the principle of equality.

Though rights to undertake to manage farmlands are seen as property rights in a popular view in China, owing to restrictions originating in the land management system, the legal principle of property rights are little applied in practice.