FRONTIERS OF LAW IN CHINA
VOL. 11 MARCH 2016 NO. 1
DOI 10.3868/s050-005-016-0007-0

ARTICLE

"PARADOX OF ENGLISH LAND LAW" — AN ENLIGHTENMENT TO LAND LAW REFORM IN CHINA

*HONG Qiao**

Abstract Since the founding of New China in 1949, the land law system with Chinese characteristics has been formed based on various practices, inter alia, the evolution of the rural land law system from the agrarian reform to the cooperative and people's communes and further to the household contract responsibility system, which made historical contributions to the development of Chinese social economy. However, with the development of the practices and the deepening of the reform, China's land law system is facing great challenges under the new circumstances. Although many differences exist between English land law and Chinese land law in the areas of legal form, the regulated objects and contents, English land law can provide some beneficial enlightenment to China's land law reform. Particularly, the "paradox of English land law," which presents the way how the English land law, as the law adjusting the basic property relations with many traditional factors, responds to the process of social and economic development with leaps and bounds.

Keywords English land law, land law reform in China, interaction of law and economy

INTRODUCTION

Since the 1980s, China's economy has maintained a stable increase for a long term while many social reforms have progressed simultaneously. In the land law realm, which focuses on the regulation of the most basic property relations, since the founding of New China in 1949, the land law system with Chinese characteristics has been formed based on various practices, inter alia, the evolution of the rural land law system from the

* (洪荞) Ph.D and Researcher of Common Law Center, Renmin University of China, Beijing 100872, China. Contact: blueglass@vip.sina.com

agrarian reform to the cooperative and people's communes and further to the household contract responsibility system, which made historical contributions to the development of Chinese social economy. However, with the thorough development of practices and reform, many problems emerged in that the current rural land law system in force is not in conformity with the socialist market economic system. As a consequence, the land law system is facing great challenges under the new circumstances.

In the new situation, the current land system reform places great emphasis on the ideas of promoting the transfer of farmland management rights, rural land expropriation, collective construction land commercialization, rural homestead reform and so forth.[1] Those reforms are relevant to the adjustment of major national interests, the amendment of several key laws as well as the improvement of systems of rural collective economic organizations and self-governance of villagers. China's social development mainly focuses on how to deepen the land reform, ensure and boost the economic prosperity through rational allocation of land resources. Chinese scholars concentrate on domestic situation, addressing the structures of land ownership, rural collective land ownership and the transfer of contractual rights of land, peasants' share cooperation, and at the same time conduct deep discussions accordingly. Upon coping with the issues mentioned, beneficial experiences and enlightenment for China to learn from are available in many foreign jurisdictions.

Land law gains its fundamental status in legal system of a country by adjusting the most basic property relations in the society. The fundamental status is reflected by its close link to the economy, politics and culture of the country concerned. These characteristics of land law determine that when absorbing beneficial experiences from a foreign jurisdiction, we should not only study the specific system, but also observe the inter-growth and interaction between land law system and its society. As the representative of common law system, the UK has a comparatively conservative society. Its land law contains distinct characteristics, which reveals the preservation of many traditions with apparent historical continuity. In addition, the evolution of English land law follows an internal mode with less external influences. Therefore, to some extent, the challenges and conclusive experiences of English land law could be used as common references.

---

[1] Centering on these focal points of reform, many land legal systems, administrative regulations and judicial interpretations have been carried out in recent years. The administrative regulations carried out by the State Council, such as Report on Situations regarding the Stability and Improvement of Rural Land Contract Relations (implemented on Aug. 27, 2015) and Guidance on Pilot Projects on Developing Rural Land Contracted Management Rights and Mortgage Load of Farmers Residential Property (implemented on Oct. 8, 2015); Judicial interpretations carried out by the Supreme People's Court includes Interpretations on the Application of Law in Cases regarding Mediation and Arbitration on Disputes on Rural Contractual Management Rights (No. 1, 2014); and the Regulations, such as Notice of Ministry of Land and Resources on Launching of Investigations on Land Transfer and Remote Sensing Monitoring (No. 136, 2015).

I. COMPARISON OF LEGAL FORM OF LAND LAW BETWEEN THE UK AND CHINA

Among the legal practices of foreign jurisdictions, it seems that China does not have the social background to learn from English land law due to the following reasons. Firstly, the legal forms are different. In common law system, as the most basic property relations, the land is regulated particularly by land law. In contrast, the land is regarded as the object of real rights under civil law by the civil law system. General principles of civil law apply to the ownership, usage, transfer, usufructuary and indemnity of land. In addition, reasonable exploitation and utilization regarding land as well as protection, governance and management of land are regulated separately by different legal departments.[2]

Secondly, the regulated scopes are not identical. Property rights under civil law system include two different aspects. One aspect refers to the property issues — the ownership of the owner is undisputed and no one shares his ownership — and another refers to contents of property rights and ownership — only the owner enjoys the ownership rather than any others, and the rights and the interests are exclusive and completed. However, in English property law, the so called property rights just contain the first layer of the meaning as that in civil law system, which means that property rights mainly regulate property issues. With regard to the content of ownership, extensive areas are under the regulation of contract law and tort law. Furthermore, English property law does not provide obligations to be undertaken due to the ownership of the object. Instead, those obligations are regulated under law of obligation, especially tort law, and laws similar to public law in civil law system. English property law only grants legal rights to the object which involve the actual ownership, usufruct and implementation of management right, including the right to transfer the object.[3]

Thirdly, the regulated contents are different. In English land law, land includes not only perceived physical property, such as land, house, soil, but also intangible rights. Transferable rights of land are regulated object of land law. The contents of land law are the regulations regarding the establishment, transfer, application, duration of the transferable rights and how to apply these rights to influence the policy of land utilization and proceeds. The very nature of principles in English land law is different from that in contract law and tort law. The differences present in various areas. Firstly, whether it contains property characteristics or not. If a right is transferable, it belongs to property

---

[2] In China, the contents of land law can be divided into two parts. The first part is its management and the second part is the content of rights. Land management law can easily be influenced by national land policies. However, the content of land law is comparatively stable, which is under the regulation of property law. The legislation regarding land includes 16 laws, 87 administrative regulations and 34 specific judicial interpretations. Besides, there are also several local regulations and rules. In conclusion, the whole content of land law of China consists of 10,171 regulatory documents.

[3] Dixon & Martin, *Principles of Land Law* (4th edition), Cavendish Publishing Limited (London), at 2 (2003).

and it will fall within the scope of the regulations under land law. The nature of property characteristics is particularly different from individual obligation in common contract relations. Secondly, the contents of the rights are different. The ownership, proceeds and transfer of the transferable rights are regulated by land law, while the contents and the obligations of the rights fall within the scope of contract law and tort law. Thirdly, the scopes of the rights to the parties are different. Although lots of transactions regarding land and land interests are concluded through contracts, lands are resold through contracts and land leases are completed by concluding a contract between the owner of the land and the lessee, the contract shall be made under the consent of both parties and certain actions needed to be performed. The validity of the contract will only affect the contractual parties. However, the rights under land law are different from those under contract law. No matter whether a land law right is established through a contract, it will affect others besides the contractual parties. In fact, any description of what is land law is about the study of the establishment and utilization of property rights of land, which manifests in the form of bundle of rights and are inalienable to the land.

The differences in legal adjustments and regulated scopes mentioned above, in most of the cases, will contribute to direct obstacles in applying the legal references to a separate legal jurisdiction. The society of the UK maintains more traditions. Land law plays an essential role in providing provisions to regulate the most basic property relations within the society. Moreover, many common law factors present in current laws.[4] When further considering the operation of these traditional factors in the process of legal transition, I have noticed a very special phenomenon — "paradox of English land law" — which may enlighten China's land law reform in a different perspective.

II. LEGAL DECONSTRUCTION OF PHENOMENON OF "PARADOX OF ENGLISH LAND LAW"

The UK, as the earliest country entered into capitalism in the world, has dominated the economy and civilization of modern world for a long term. For almost three centuries since 1640s, with the rapid development of domestic economy and the loose social environment followed by gradual political revolution, the UK has carried out a series of political and legal practices aimed at limiting the kingship and safeguarding the individual rights. However, on the one hand, there were economic surge and social reform until 1925, as the law regulating the most basic property relations in the society, land law maintained the legal characteristics as that of 300 years' ago. Law lagging behind economy is not a rare phenomenon, however, it is not common that traditional law provides regulations to adjust basic legal relations of the most rapidly growing capitalism economy in modern world. The scholars call the unexplained phenomenon the "paradox

[4] William Searle Holdsworth, *An History Introduction to the Land Law*, Oxford University Press (Oxford), at 836 (1927).

of English land law."[5] Besides the paradox of the unbalance between land law system and era development, German scholar Max Weber has referred to "paradox of British law." He believes that comparing to civil law system, the British law does not reach a high level in rationalization. However, comparing to the process of economic development in the UK, we could see that although the rationalization level is not high, the British law did not impede its capitalism development. On the contrary, to some extent, it promoted the capitalism development.[6]

The "paradox of English land law" mentioned by the scholars manifests in two layers. The first layer is reflected in the legal framework. Generally, social governance basically requires that land law system should be constructed as a highly organized as well as reasonable and sufficient structure. However, English land law seems archaic and complex. Many common law factors are preserved in current law, which means that the legal concepts are obscure, the legal principles are complex and conflicting and the classifications of the legal interests are heavy and complicated. It is obvious that conflicting emerges between the archaic land law and the requirement of efficiency of the adjustment of modern law. The second layer is reflected in the contents of the law from which the interactions between the society and the law are shown.[7] The fundamental contents of land law adjust the basic property relations and for quite a long time since the UK entered into capitalism, the traditional legal system of land law had been maintained and it safeguarded the estate system for the aristocracy. Although since entering into the

---

[5] It is not difficult to find the expression of "paradox of English land law," for example, at the end of 19 century, although the UK has already completed its industrial revolution, the British bourgeois democracy has been established. The UK has become the top capitalist power in the world and was gradually transmitting to monopoly capitalism stage. However, since the Middle Ages, within the realm of land law, the feudal rights system remained. Therefore, a strange phenomenon occurred — a complicated feudal rights system was implemented by the top capitalist power and we call the inharmonious phenomenon existing between land law and economy the "paradox of English land law." See XIAN Hongchang, 英国土地法律史——以保有权为视角的考察 (*History of English Land Law — From the Perspective of Tenure*), Peking University Press (Beijing), at 366 (2010). Take another example, the British scholar Dicey also mentioned the "paradox of English land law." She pointed out that "the evolution of English land law between 1830 and 1900 was a paradox-the everlasting land reform has been continuing for 70 years and it will definitely not come to an end. These reforms refer to the fundamental aspect of land law…actually, the basic factor of land law remains…Therefore, the paradox can be concluded as — although Monarchy is kept in British Constitution, it has became the symbol of democracy, however, English land law still keeps the form of fitting with aristocracy. It is an eye-catching phenomenon itself. Based on this knowledge, it is completely hard to understand the paradox." A. V. Dicey, *The Paradox of the Land Law*, Law Quarterly Review, 221 (1905).

[6] American scholar Max Rheinstein summarized Max Weber's theory and pointed out that since law presents with a form of rationality was a necessary condition for capitalist production, why capitalism emerged in England where the precondition was not met and it emerged as the earliest one in the world? See Max Weber, *On Law in Economy and Society*, translated by ZHANG Naigen, Encyclopedia of China Publishing House (Beijing), at 24 (1998).

[7] "Legislation is made for maintaining and safeguarding social system and social order in every society. Only by understanding the social background of the emerging of certain kind of law, can we know the significance and functions of these laws." See QU Tongzhu, 瞿同祖法学论著集 (*QU Tongzhu's Theory of Law*), China University of Political Science and Law Press (Beijing), at 4 (1998).

19th century, the parliament has carried out a serious of legislations, it is true that the characters of feudal land law were still maintained before the land reform in 1925. These characters involve safeguarding the feudal latifundium system and family interests, limiting the land transfer and so forth, which pose disadvantages to land interests of other legal subjects except major landlords. Consequently, contradictions emerged between the feudal factors and protection of the subjects' interests. Since the later is the requirement of economy development for legal adjustment to meet.

When we look back to the economy of the UK in the same period, it seems that the agriculture production and economy growth were not impeded by the land law which participated in the great social changes, however, to some extent, it made contribution to the development of the capitalism. With respect to the interactions between land law and social economy, the special phenomenons revealed in English land law are not only against the mode and theory that we were familiar with, but also are not in conformity with our prior judgment — there is direct link between the growing of property rights and modern economic development. How does the English land law exactly coordinate and cope with the contradictions arising from the requirement of modern law adjustment?

With respect to English land law itself, since the traditional law lags behind the economic development stage, why not reform it? From the situation of English land law in modern times, we could see that there are insurmountable technical obstacles[8] when conducting thorough reform. On the one hand, the highly specialized contents and

[8] In modern times, one the one hand, the UK is a highly developed capitalist country, the conflicts between the requirements of economic development to adjust legal relations of land law and traditional land law have been increasingly emerging. Lessees' rights and interests could not be protected efficiently, the estate was still in possession of family, the complicated transfer process and limitation of transfer through virtual means made the freedom of trade and transfer of land became in vain. Thus the call for land reform from the society emerged. On the other hand, there are many technical obstacles in carrying out land law reform. The English land law preserved highly traditions. It is effective for both the customary land law that was issued centuries ago and the newly enacted regulations and decrees. There are also rights and interests under both common law and equity. The legal concepts, principles, regulations and classifications formed during the historical evolution all exist in land law. It is quite a difficult task to construct a legal system which is comparatively systematic and also meets the need of capitalist economy under the fact of land law with obscure concept, complicated classification of rights and interests, conflicting legal rules and the mixture of both old and new principles. With respect to English land law reform, there are two modes that can be referred to. The first solution should be a thorough reform to construct a legal system as civil law system. Alternatively, adjustment and amendment of the contents of the law can be carried out under the current condition. From a historical evolution perspective, it is impossible for English land law to take any advantages from the first solution since Norman conquest in 1066. After the Norman conquest, a large amount of lands owned by royal family of Anglo Saxon were confiscated and it was declaimed that all the land within the country belonged to the kingdom. As a consequence, allodium, which existed for a long term has been abolished legally within Europe and the possibility of absolute ownership of the land was excluded from the rights existing in the future land law. The land owned by the kingdom, as a principle, laid a tendency for the separation of the civil law system and the common law system initially. As a result, it excluded the possibility for common law system to include the existence of ownership as that is enshrined in civil law system. The subsequent construction of English land law thus originated from the above mentioned circumstances.

complicated structure of English land law set a high bar for the legal professionals. On the other hand, as the main part of the reform, the legal professionals can hardly provide adequate subjective position and objective wisdom in support of the reform. Along with the conventional thinking of pragmatism, English law focuses on settling specific disputes which brings barriers to the launching of a thorough reform of land law. Even if some legislation measures have been taken by the parliament in the 19th century in response to the calling of land law reform by the public, the root of the land law remained untouched.

Now that it is impossible to overcome the technical obstacles to conduct a thorough reform, the land law has to stay in its original appearance. However, the original appearance of land law conflicts with the requirements of the modern law in adjusting legal relations. Recalling the historical evolution of land law, we could find out some particular classifications of system and protection mechanisms with highly flexibility which are not only able to get rid of the outdated systems but also can maintain the room for a new system to meet requirements from economic relations changes. These classifications of system and mechanisms with their own flexibility maintain not at the expense of legal efficiency and the interests of the legal subjects. As a result, land law continues to fulfill its adjustment function while the social-economic formation evolves.

The classification of estate and its interests are the core of the system when designing English land law. It is the system that divides estate interests based on longitudinal timeline.[9] And it is of great value not only for the actual land in possession but also for the rights and interests of the land in the future. Dividing estate interests based on longitudinal timeline ensures the efficiency of land utilization which plays a key role in preserving the traditional characteristics of land law. Thus the feature of focusing on the actual utilization of English land law was established. What is more, designing of the system excludes personal attachment to land law[10], which means that the rights and

[9] In the 14th century, according to the different types of rights and interests contained in freehold property, freehold property in English land law has already classified as: life estate, unconditionally inherit property, fee tail, reversion and reminder. Among the classifications, since the tenants of life estate, unconditionally inherit property and fee tail can instantly possess land and obtain benefits from it, these three types can be called as "estate in possession." Although the rights and interests of tenants of reversion and reminder can be transferred and inherited, there must be a waiting period for possession and obtaining benefits at a certain time in future, thus these two types are called as "estate in expectancy."

[10] The principle of land holding to the king excludes the development direction of ownership. Corresponding to land owned by the King, the actual possession of land by other people exists in the form of tenure, which contains the bundle of rights. It is different from ownership in civil law system. Therefore, it directly determines the fundamental differences between common law and civil law in their contents. On the other hand, tenure indeed came into being at the initial stage of feudal society in UK. It was inevitable that personal attachment exists. However, objectively, personal attachment will be abandoned as the evolution of the society. But what was subtle is that as early as the 12th and 13th century, the most important classifications of land law were classified based on whether the obligations were determined, rather than personal attachment. These factors taken into considerations when classifying tenure types includes, the differences between freehold property and non-freehold property or property hold in lease and the differences of rights and interests came from estate classifications or personal property classifications. Among these types, some of them were eliminated naturally due to the disappearances of the obligations. However, although social economy evolves, the overall law will not be abolished just on the basis of the existence of characteristics of personal attachment, which helped to keep the basic factors and presence of the law.

interests are classified on the basis of obligations rather than the nature of personal attachment. Because of that, although the society evolves, there is no reason to abolish the law in general. In the classifications of the land property, lease property was classified independently, which preserves extensive room for the increase of pure land economic relations in modern time.

In English land law, all the contents are almost constructed to center on the rights and interests of the land as well as the protection of them. Besides the designing of the classifications of the land property, the dual protection mechanism in English land law further enhanced the flexibility of English land law mechanism. The formation of equity and dual protection mechanism in common law originated from the separation of possession from ownership, and thus usufructuary relations that can not be regulated by the existing legal system emerged. For the emerging of new usufructuary relations, land law provided the most flexible equity to protect them. When the protection of equity was mature enough, the land law absorbed it under the realm of common law and reconstructed the rights and interests. After the land law reform in 1925, although the kinds of rights and interests were reduced, many traditional rights and interests were retained under the re-protection of equity.

It is the tactful design of the classifications and the dual protection system that enabled the English land law to possess greater system flexibility for adapting the social changes. At the same time, the design of the system gave full consideration of the needs of legal efficiency and protection of rights and interests, which enables the English land law to preserve the traditional appearance while resolving the contradictions rooted in the requirements of economic development for legal adjustment through its legal operation.

III. ENLIGHTMENT TO LAND LAW REFORM OF CHINA

In current China, the issues regarding land and the way to boost economic growth through land law are so significant that the whole society's attentions are drawn by them. Although differences exist in legal form and regulated scopes between English land law and Chinese land law, some special historical stages of English land law can provide valuable enlightenment to land law reform in China, especially the "paradox of English land law," which reflects the rapid economic surge stage and the positioning and response mechanism of traditional land law.

First of all, the interactive mode between social economic development condition and traditional land law relations revealed by the "paradox of English land law." The traditional China is a rural society established on agrarian economy, which attaches more importance to land than ties of blood. The ranking of the value of land attribute, behind the land legislation decreases progressively from natural attribute to social attribute, and to economic attribute.[11] Social attribute means that the land plays a role as the media of

[11] ZHANG Linlin, 城市化进程中农村集体土地所有权分析 (*Analysis of Rural Collective Land Ownership under Urbanization*), 4 法学杂志 (Law Science Magazine), 113 (2005).

social relations for those who farm on it and thus safeguards those people, which is of great significance for traditional China. May be is can explain why after several land reforms, the allocation of rights, particularly on the rural collective land, changed the structure of the rights, however, the peasants' concepts of land are still deeply rooted and the social background of land legislation keeps its high tradition. On the other hand, similar to the UK in the modern time, the current China is also facing the problems of adjusting land relations required by its economic surge. The property rights regulated by land law keep changing both in the contents and the classifications. The needs of reconstruction and establishment of land rights as well as land transfer are becoming increasingly urgent. There are contradictions between economic development and traditional legal adjustment as well. In this regard, there is also social background for the land law paradox to come into being in China.

However, we use the expression of paradox to describe the "paradox of English land law" is because that the land law which lags behind the economic development plays a role in adjusting modern legal relations. It seems that it is against the interaction of law and economy that we were familiar with. Actually, there are significant traditional characteristics in English land law. It maintains these traditions while contributing to a better resolution for the contradictions between legal efficiency and protection of the subjects' rights and interests arising from the conflicts between traditional factors and the requirements of legal adjustment. Ensuring the system flexibility, English land law follows a very precise logic in applying legal principles. With respect to abstract rules of the law and its classifications, more rationality is reflected between the lines. Since the contradictions between legal efficiency and the protection of rights and interests are resolved by the system, land law functions smoothly. With respect to the process of land law operation, it fits well with the economic relations that regulated by the law. As far as Chinese domestic situation is concerned, many advantages can be taken from the mode of English land law. Within the current legal framework, we should concentrate on designing some systems with flexibility, clearly set up rights, enhance efficiency in land utilization and seek balance between safeguarding the stability of law and promoting economic development through system innovations.

Moreover, estate system was set up by dividing rights and interests based on timeline. Considering the contents of the rights regulated by land law, with respect to the issues of land utilization, there are no natural barriers for Chinese land law to learn from English land law. In China, the urban land is owned by the state while the rural land is owned collectively by the rural. In English land law, the land is owned by the royal. In fact, the main differences between land law in China and that in the UK are not about whether there is ownership of the land, but concern the different utilization ways, which lead to two property systems — Rome property law, which was established on the basis of separation of ownership, and German property law, which was established on the basis of the principle of separation of property.

Land ownership is the concept of civil law and in the UK, to put it strictly, it is not correct to use this term.[12] Some scholars mentioned that, the "ownership" in common law, as an absolute, exclusive and sustainable right, just like a box. The owner can transfer the rights of use and usufurct stored in it to other people. However, as long as the box belongs to him, although it is empty, he still enjoys the ownership. There is no corresponding type of right in English land law to the concept of ownership in civil law. In common law, the box does not exist, but the bundle of rights do. Thus the term of "ownership" is replaced by "estate," which means that the most preferential and complete bundle of rights are acknowledged by law. In the UK, private ownership of the land can be described as estate, while land tenure is serving as the core of estate with significance importance.

Estate is a term used in common law. Since the middle of 13th century, "estate" emerged in English land law as a specific term.[13] The term originally means status. In the end of 13th century, with the decline of personal attachment and the evolution of land tenure system, the meaning of estate changed. The rights and interests prescribed before, contains identity factors under tenure system, later mainly evolved to various interests with semantic congruity. For most of the time, estate does not mean a piece of land, it refers to the time period when a person can enjoy the land.[14] Estate was divided based on timeline and every transferable estate is of significant value. That increased the efficiency of land utilization.

In the subsequent development, estate is used as a right, which indicates that someone enjoys certain rights of estate. To put it in another way, it refers to the subject enjoying the rights and interests which are set up and exist for a certain period of time. Just as a bundle of rights, estate contains all kinds of rights and interests and becomes a super-ordinate concept. Every piece of land can be divided into an indefinite number of rights and interests. The rights and obligations revealed by estate are neither personal nor contractual, but are closely linked to land and can be transferred automatically to people who buy or inherit it. Those who buy or inherit the land can transfer the rights and obligations to others, which will bind the third party. With one property and multiple rights and subjects, estate will undoubtedly benefit for the transfer of the rights and interests.[15] In China, estate utilization exists as well, but it neither has standards for its

---

[12] Nominally, all the land in the UK belongs to the King and individual cannot possess the land itself, but only possess the property right of land. Since it is a property right, it can be divided and transferred, and great importance should be attached to the profitability, which predetermined the characteristic of focusing on land profitability in English land law.

[13] F. Pollock & F. W. Maitland, *The History of English Law before the Time of Edward I*, Vol. II, Cambridge University Press (Cambridge), at 11 (1978).

[14] F. H. Lawson & B. Raden, *Property Law*, Encyclopedia of China Publishing House (Beijing), at 26 (1998).

[15] See XIAN, fn. 5 at 128.

definition and utilization, nor as important as that is in English land law.[16]

Admitted that no matter in Roman property law or in German property Law, the issues of ownership and utilization are better settled. It is convincing that the main countries with civil law system, evolved from Roman law and those with common law system, evolved from German law enjoy high prosperity in market economy. It is acceptable for China to take advantages of English land law to improve land utilization efficiency when carrying out land reform.

Furthermore, the issues regarding land law are not just legal issues. They are more closely linked to the politics, economy and culture of the country concerned. From the study of the "paradox of English land law," we could see that comparing to other laws, the evolution of English land law was influenced by politics, economy, culture and other social factors. This is because that land law is fundamental in the legal system. As the resource that is most closely related to mankind's survival and development, land is always regarded as the base for life and human reproduction. To possess and use land are top considerations when allocating social resources. Therefore, land system serves as the base of social systems and it is also the cause of the initiative and change of other systems, including property system. Thus, all kinds of legal relations linked to the possession and use of land that are regulated by land law, contribute to its fundamental status and closer link to the politics, economy, culture and history of a country.

The close link to social factors ensures land law to root deeply in the society. Every change occurred is influenced by surrounding factors. In this sense, the evolution of land law is not simply a legal issue, but the result of all the factors combined politics, economy and culture. However, the effect of the implementation of land law lies in how well it fits with the society. Regardless of its contents and form, once it fits with the society, it can promote the development of social economy.

The land issues in China are also complicated social and social science issues, which contain politics, legal and economy considerations. They are closely tied with the current system structures, development mode and interests. English land law can provide beneficial experiences to China. The evolution of land law is not a pure legal issue, which indicates that, in current China, a comprehensive analysis of social conditions should be taken into consideration in order to propose reform solutions accordingly.

CONCLUSION

Land is the most fundamental resource in the society. Land system serves as the

[16] With respect of real estate in China, there are broad and narrow senses respectively. The board sense is similar to the meaning of land property, which contains clear ownership and is consist of pure natural land and all land capital. The existence of clear ownership in law can allow the owner, the market manager and the user to conduct land exploitation and market management. In a narrow sense, real estate is the construction land that can bring correspondence economic benefits. See YU Guangyuan, 经济大辞典 (*The Great Dictionary of Economy*), Shanghai Lexicographical Press (Shanghai), at 622 (1992).

starting point of the social system of a country. As the law regulated the most basic property relations in the society, land law gains its fundamental status in legal system and reveals a closer link to the politics, economy, culture and tradition of the country. Therefore, land law system evolution cannot just be a simple legal reform. In this sense, with respect to current land law reform in China, we should not only take advantages of the legal system but also the inter-growth and interaction modes between land law system and social economy from foreign jurisdictions.

"Paradox of English land law" describes a strange phenomenon of the UK's society during 300 years after entering to capitalism. With the background of rapid social and economic growth, traditional land law, which protects feudal latifundium system for the noble family maintains. What was surprised is that the economic development of the UK was not impeded by the phenomenon. Through understanding the "paradox of English land law," we found that traditional land law was able to adapt to and meet the requirements of fast development of social economy. The key lies in whether we could find the harmonious interaction between traditional land law and social economy relations that needed to be regulated. However, in the UK, the interaction is implemented through several flexible systems, inter alia, the classification of rights and interests of land and dual protection mechanism, which ensure the land law to maintain its traditional form while contain the flexibility to include some newly-emerging social relations at the same time. The interaction between traditional land law and economic surge will provide enlightenment to China's land law reform.

Moreover, the UK is a comparatively conservative society with historical continuity. The whole process of the evolution of English land law basically follows an endogenetic route and was less influenced by the external. Therefore, to some extent, English land law contains certain issues and conclusive experiences that are of universal significance. Less influenced by the external and together with a progressive legal reform, no absolute ownership exists in English land law. All the relevant rights and interests are divided as bundle of rights in the form of tenure. There are many similarities to Chinese domestic situation. The flexible system of English land law, its concentration on land utilization and the design of dividing rights and interests based on timeline greatly improved the efficiency of land utilization. We should initiate mechanism innovations under the current condition and conduct land law system reform while maintaining the existing systems. All those experiences can provide us enlightenment and beneficial references.