

1 On the Value of Chongqing Back-Feeding Agriculture Legislation
2 in China

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7 **Abstract**

8 The purpose of this study is to find out the value of Chongqing back-feeding agriculture
9 legislation in China by method of literature analysis so as to provide the guidance for
10 establishing the related legislative regulations. The purpose value of Chongqing back-feeding
11 agriculture legislation in China is to establish the trial legislation for back-feeding agriculture
12 in China based on the systematical analysis of basic theories, institutional arrangement and
13 operational mechanism. The moral value of Chongqing back-feeding agriculture legislation in
14 China is to ensure the fairness in entities and procedures, and the efficiency in orders and
15 benefits. It is concluded that the legislation of Chongqing back-feeding agriculture in China is
16 quite necessary regards to the two type values, i.e., purpose and moral values.

17

18 *Index terms*— Back-feeding agriculture; purpose value; moral value; value of legislation.

19 **1 I. THE THEORETIC BASIS OF THE VALUE OF
20 CHONGQING BACK-FEEDING AGRICULTURE LEGI
21 IN CHINA**

22 alue" is a word that refers to nondifferential ordinary human labor condensed in goods in terms of economics,
23 and usefulness or specific positive effects of objective things in the general sense."The value analysis means the
24 cognition and evaluation of the value relations between phenomena or things as objects and people as subjects
25 (a certain class, stratum, group and individual), namely the embedded and proper value factors in particular
26 objects. It is very necessary and of great significance to apply value analysis in the study of jurisprudence for
27 the value cognition and evaluation of laws phenomena." ??1? The discussed value of back-feeding agriculture
28 legislation is to apply the method of value analysis to see through "the usefulness or specific positive effects" of
29 back-feeding agriculture legislation and to make clear its superficial purpose value and deep moral values, then
30 it may be possible to make appropriate, timely and accurate guidance for establishing the related legislative
31 regulations Before analyzing the value of Chongqing backfeeding agriculture legislation, it's necessary to define
32 what's "value of legislation" which is a controversial issue in the judicial field. For example, "generally the value
33 of legislation doesn't refer to legislative function or usefulness of legislation, but the correlations between needs
34 of legislative subjects and legislative objects (the objects that the law will adjust) shown by moral rules and
35 interests that legislative subjects pursue to realize through legislative activities." ??2? "The value orientation
36 of legislative decision-making is the idea, common principle, goal, etc approved in general and deserved to be
37 pursued by people while making legislative decisions. Value orientation is determined by the character of the
38 particular practical activities of legislative decision-making, not extra added." ??3? "It is the unique character of
39 the distinct phenomenon of legislation procedure that determines the value orientation of legislation procedure,
40 which is actually the common principles and goals approved at large and greatly pursued by people while
41 formulating legislation procedures. They are the factors beyond the scope of laws that may exert an influence on
42 legislation, policy application, judicial decision, etc. The logic reason that people choose legislation procedure is

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43 its satisfaction to human ideal and the pursued common principles.” 74? “The value of legislation indicates the
44 relation between legislation subjects (legislature with legislative power) and legislation objects (objects adjusted
45 laws) existing in legislative actions, reflecting the wish of ‘good laws and kind governance’ the whole of social
46 members run after and hope the wish can be to some extent suitable for, close to or corresponding with changing
47 and developmental legislation objects in order to satisfy their requirements for realizing code of conduct such as
48 moral standards, custom requests and scientific rules.” 75? “The value orientation of legislation refers to the idea,
49 common principles, aim, etc acknowledged generally and pursued by people while carrying through legislative
50 activities, including two kinds of implication, one is the purpose or social benefits every country wants to obtain
51 while making laws, the other is the ultimate choice of value goal when contradictions turn up in various value
52 goals that laws seek.” 76? Although these viewpoints has their own merits, they doesn’t define completely the
53 essence of “the value of legislation”. Hence, the analysis can be made by referring to the classical standpoint
54 of Jeremy Bentham, the chief representative of utilitarian theories of laws. people is the only right, proper and
55 expected in general purpose of human actions”. 77? “The general purpose all laws have or usually should possess
56 is to increase the total of social happiness, and the four specific purposes are subsistence, equality, richness and
57 safety.” 78? Bentham’s thesis actually defines the value of legislation from 3 aspects which are motive, goal and
58 value. “Subsistence, equality, richness and safety” are human lower needs of instinct desires to ideal community
59 life, that is motive; “increasing the total of social happiness” is the expression of human needs with certain
60 characters of reason based on instinct desires, namely the goal; “the greatest happiness of the greatest number”
61 is the moral guidance to the ideal community life surpassing instinct desires, i.e. , value. The former two aspects
62 are binary expressions of superficial value of purpose, subjects’ needs and interests which can be calculated via
63 number. If legislation reduces its conflicts only for coordinating the interest of “subsistence, equality, richness
64 and safety”, it is merely “positive legislation”; if legislation ascends to the degree of “increasing the total of
65 social happiness” for realizing maximum interests, it can become “active legislation”. The latter can be called
66 the incisive proverb of deep value of morality and it can not be calculated according to number. “The greatest
67 number” means the gradual approach of relative “fairness” in procedure to absolute “fairness” in entity that can
68 be realized; “the greatest happiness” shows the pursuit of efficiency, and it needs to start with society and the
69 subject himself in order to realize efficiency, and outside social order provides the environment of realization, the
70 subject himself means the accomplished outcome. “The value of legislation is the code of ethics that legislation
71 subjects need to realize through legislative activities, then the satisfaction of the needs and interests of legislation
72 subjects can be realized through the outcome of legislative activities under the effect of this code.” 79? We might
73 as well analyze the value of Chongqing back-feeding agriculture legislation from purpose and morality on the
74 basis of this definition.

75 2 II.

76 3 THE PURPOSE VALUE OF CHONGQING BACK- 77 FEEDING AGRICULTURE LEGISLATION IN CHINA

78 “Back-feeding” is a bionic concept, first originating from “when a little bird grows up, it feeds food to its mother.”
79 in The Story of Beginning to Learn: the Ode to Bird. It is endowed with new connotation when it is applied
80 in the public policy of “back-feeding agriculture”. That is to say, industries and cities have been developed after
81 taking in agriculture’s feeding, and they should feed back to agriculture. The issue of backfeeding agriculture in
82 China was first put forward by the General Secretary Hu jintao while expounding the “Two Tendencies” in The
83 CPC’s Fourth Plenary Session of The Sixteenth Central Committee in 2004. “In the development course of some
84 industrialized countries and the initial stage of industrialization, generally agriculture supported industry and
85 provided accumulation for industry; but after industrialization developed into quite a degree, industry fed back
86 to agriculture and cities supported the countryside, realizing the coordinated development between industry and
87 agriculture, urban and rural areas was also a universal trend.” 80? “In 1986 Fei xiaotong came up with the ‘back-
88 feeding’ theory of industry to agriculture after investigating cities like Suzhou and Wuxi. The rising of industry
89 depends on the accumulation of agriculture, yet once industry gets preliminary development, it will support
90 agriculture constantly, ‘make supplement for agriculture’ and ‘construct the countryside’, thereby promoting
91 the sustainable development of agriculture and the countryside.” 81? It is the stage veer of “agriculture fosters
92 industry” and “the countryside fosters cities”, “industry feeds back to agriculture, cities support the countryside”
93 is a significant regulation of development strategy which China’s economy is confronted with after entering into the
94 medium term of industrialization.” 82? Regurgitation-feeding agriculture is the general rule of each country’s
95 economic development in the medium term of industrialization across the world, and industrialized countries
96 mostly achieved the policy swerve from “agriculture support industry” to “industry supports agriculture” via
97 related legislations, such as the American Agricultural Adjustment Act of 1938, British Agricultural Law of 1947,
98 German Planning of Agricultural Structure Reform of 1953 and Japanese Agricultural Fundamental Law of 1961,
99 marking the country’s entering into the phase of large-scale back-feeding agriculture. The theory, system and
100 practice of back-feeding agriculture also exist in foreign countries, however, there isn’t corresponding words and
101 phrases for expression, “back-feeding agriculture” is the unique policy concept of Chinese characteristics.

102 At present, China has entered into the stage of back-feeding agriculture on the whole, and all parts of the

103 country are vigorously exploring approaches and mechanism of back-feeding agriculture. There are now five sorts
104 of mature modes of back-feeding agriculture, including Pearl River Delta Mode, Mode of Zhejiang Province, Mode
105 of Shanghai, Mode of Beijing, and Mode of Qingdao. Recently new types of back-feeding agriculture appeared in
106 cities such as Shenyang in Liaoning Province, Suzhou in Jiangsu Province, Xinyu in Jiangxi Province, Huizhou
107 in Guangdong Province,

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109 On the Value of Chongqing Back-Feeding Agriculture Legislation in China Bentham regards "the greatest
110 happiness of the greatest number" as the value orientation of legislation, "the greatest happiness of all the
111 interests-related cities support the countryside". In Chongqing of 2008, the gross of GDP came up to 509.666
112 Yuan (RMB) and per capita GDP reached to 2573 dollars; but rural per capita net income was only 4126 Yuan,
113 while urban per capita disposable income has 15709 Yuan. During years from 2007 to 2010?GDP had been
114 maintaining a growth around 15% ?per capita GDP grew constantly to 2000 , 3000 and 4000 dollars for three
115 years. In 2010 financial general budget revenue increased by nearly 49%, and in the first half of 2011 the rate
116 of growth exceeded 50%. However, the Gini coefficient of 2010 was 0.438, reflecting that under the background
117 of economic high-speed growth Chongqing had a large residents' income gap, especially the income gap between
118 urban and rural areas still got no effective solution. In July of 2011, the Ninth Plenary Session of the Third
119 Chongqing Municipal Committee of CPC (the Communist Party of China) passed the "Decision Concerned
120 with Narrowing down the Three Gaps and Promoting Common Prosperity by Chongqing Municipal Committee
121 of CPC" and put forward 12 specific measures about unifying towns and the countryside and promoting the
122 coordinated development between urban and rural areas, for realizing towns' support for the countryside and
123 industry's regurgitation-feeding to agriculture. The objective is as follows: by 2015, the economic aggregate of
124 Chongqing will multiply synchronically with the resident income, narrowing down the income gap between urban
125 and rural residents to the ratio of 2.5 to 1 approximately, and Gini coefficient to around 0.35; basically complete
126 the important growth pole of the western regions, the economic center of the upper reaches of Yangtze River and
127 the municipality directly under the central government with the urban and rural overall development, thus to be
128 the first to realize overall well-off life in the western regions.

129 For the past few years, the law circle had made research on the issue of regurgitation-feeding agriculture from
130 many perspectives. A number of scholars defined its meaning, basic principles, all kinds of misunderstanding,
131 the do's and don'ts, and particularly made detailed explanation of its real significance to the economic and
132 social development in various regions. Some scholars explicitly pointed out that China has entered into the of
133 stageback-feeding agriculture and put forward the judging basis such as "reality need, international experience,
134 realistic conditions" and so on. Many scholars made detailed analysis of the restriction factors to the back-
135 feeding agriculture (like the constraints of system, population, finance, structure and organization) and all kinds
136 of specific difficulties. The most studies are concerning the specific solutions to solve the back-feeding agriculture
137 problem, mainly comprising studies of method, system and mode. Besides, some scholars made a comparative
138 analysis of the regurgitation-feeding agriculture experience of the U.S.A., Germany, France and South Korea
139 combining the practice of China. In a word, Chinese academic circle's study on back-feeding agriculture has
140 formed a comprehensive system in a short period of time, but few scholars do research on this proble from the
141 aspect of the science of law especially legislation. Among all the hierarchy normalizative documents of law,
142 only the principled regulations of Chapter 6 and 7 in the Agricultural Law of the People's Republic of China
143 (PRC) touch upon the matter of "regurgitation-feeding agriculture" to some extent, lacking operable detailed
144 rules and regulations. Moreover, most of the relevant laws and regulations are concerned with the protection of
145 agricultural resource, and less involve the related fields like agricultural production and management, agricultural
146 production elements, price of agricultural products, consumption and reserve of agricultural products, finance
147 (credit) support, system of imports and exports, promotion of agriculture science and technology and protection
148 for peasants' interests.

149 Hence, there is need to construct China's legislation system of regurgitation-feeding agriculture so as to
150 provide necessary system security for carrying out the practice of back-feeding agriculture. We should first
151 make experiments prudently in some local places, and then build unified and high-hierarchy legislation of
152 backfeeding agriculture in China on the basis of summarizing experimental places' experience. Chongqing, as
153 statelevel experimental site of connecting urban and rural comprehensive supplementary reforms, has accumulated
154 some valuable experience about promoting the development of agriculture with industry and leading the
155 countryside by city. So it may as well take the lead in innovating local legislation as to the issue of back-
156 feeding agriculture with industry in the experimental site of Chongqing and formulating the Regulations of
157 Regurgitation-feeding Agriculture in Chongqing by the Standing Committee of People's Congress in Chongqing,
158 in order to establish the basis for setting up the legal system of China's back-feeding agriculture. The purpose
159 value of Chongqing backfeeding agriculture can be clearly defined as having a try on making local legislation of
160 back-feeding agriculture based on systematically analyzing the basic theory, system arrangement and operation
161 mechanism of China's back-feeding agriculture; and then increasing the total of "social happiness" concerned with
162 backfeeding agriculture for maximizing the interests; and gradually making Chongqing back-feeding agriculture
163 work standardized and legalized for pushing forward the definite realization of "Decision Concerned with

7 A) INHERENT VALUE OF FAIRNESS

164 Narrowing down the Three Gaps and Promoting Common Prosperity by Chongqing Municipal Committee of
165 CPC".

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167 Nanning in Guangxi Province and Tongren in Guizhou Province. As a whole, Chongqing has had the basic
168 requirements of "industry feeds back to agriculture,

169 6 III. THE MORAL VALUES OF CHONGQING BACK- 170 FEEDING AGRICULTURE LEGISLATION IN CHINA

171 The moral values of Chongqing back-feeding agriculture legislation are mainly embodied in the fairness and
172 efficiency this legislation brings for the society, namely ensuring the impartiality on entity and procedure in the
173 back-feeding agriculture activities and the efficiency on order and benefits. The former as the inherent moral value
174 of back-feeding agriculture legislation decides the essential attributes of this legislation; the latter determines the
175 existence form of this legislation because it let people have specific perception of reality as the extrinsic moral
176 value.

177 7 a) Inherent value of fairness

178 The value of fairness requires that each legal subject should enjoy equal status and can allodially take part in
179 certain activities in the allowed band of laws. Pursuing the fairness value of back-feeding agriculture means
180 seeking for the justice idea of balanced urban and rural development and common prosperity, the justice of
181 back-feeding agriculture activities entity and procedure must be achived.

182 Firstly, the justice of entity indicates that the three aspects of back-feeding agriculture's guiding idea, basic
183 principles and practice outcome meet the demand of justice value. First of all, in term of the guiding idea, we
184 must promote agricultural modernization and realize mutual promotion between industry and agriculture and
185 mutual prosperity of urban and rural areas on the whole from the perspective of facilitating social progress in line
186 with the maximum interests of the overwhelming majority. Specifically speaking it needs improving long-term
187 agricultural production capacity, increasing farmers' income to let the great majority of people get benefited,
188 integrating urban and rural differentiation to promote healthy development of urbanization, and protecting
189 environment etc. Then, as to the basic principles, we can set up principles of resource attraction, moderation
190 and gradual advance, "hematopoiesis", industrial double win and protection. Practically speaking, carrying out
191 back-feeding agriculture activities according to local conditions must live up to natural law of development, social
192 and economic development rule. Lastly, as far as the practice outcome, it is primarily concerned with that the
193 practice result of back-feeding agriculture activities can obtain expected benefits and let the subject of property
194 rights, the subject of investment and supervision justly enjoy the benefit, and then realize the diversified effective
195 management of agricultural and rural sustainable development. The government should be the pusher of back-
196 feeding agriculture activities, encouraging more investment subjects to play a part in through guiding financial
197 support for agriculture department; farmers are both the subject and the object of back-feeding agriculture
198 activities, enjoying the right to be fed back while doing their duty; social organizations are the important
199 assistants of backfeeding agriculture activities, organizing farmers' training for improving their technological and
200 cultural quality, promoting rural economic development by providing fund and technology support with their
201 own conditions, and helping stand up for farmers' rights with professional knowledge like laws; industrial and
202 commercial enterprises are the direct participants of back-feeding agriculture activities, needing to increase the
203 financial strength of supporting the agriculture or enhancing the ability to accept rural surplus laborers with
204 their own development, or by offering industrial products of high quality and low price and agricultural means
205 of production for agriculture, or by increasing the demand of agricultural products, or by increasing financial
206 contribution.

207 Secondly, the fairness on procedure means that the operating procedure of back-feeding agriculture should
208 embody the justice of procedure based on the examination of justice, so as to let subjects of many parties carry
209 out related activities in accordance with their own will under the permission of laws in the process of back-
210 feeding agriculture. The legal system of back-feeding agriculture should establish authorized standard in order
211 to fully guarantee right owners' right to freedom and to realize the active participation during the whole course
212 in the policy-making, operation and performance evaluation of back-feeding agriculture of the various subjects of
213 back-feeding agriculture and especially farmers in vulnerable position. In the preparation stage, related subjects
214 must join in the project demonstration and consult to the full as to the scheme, feasibility, design, ownership
215 adjustment and budget formation of back-feeding agriculture specific items, for reaching the uttermost common
216 view; in the implementation stage, the implementation must be carried out in compliance with the established
217 plan and project design organizationally, for ensuring the project operation accord with the schedule request and
218 design intention; in the evaluation stage, it must pledge that specific items of back-feeding agriculture attain
219 expected goal, complete established task and produce proper results.

220 8 b) The extrinsic value of efficiency

221 The value of efficiency calls for with the least legislative, law-enforcing and judicial cost achieving the best
222 distribution of rights and duties of subjects of legal relation and guiding rational allocation of social resources
223 and then building ideal social order. The pursuit of the efficiency value of back-feeding agriculture is to bring
224 about the maximum benefits of back-feeding A pril 2012 back-feeding agriculture with motivating measures and
225 agriculture activities based on constructing perfect agricultural legal order.

226 On one hand, as far as the order is concerned, the legal order of back-feeding agriculture is the general term
227 of ordered actions and social relations generated from social life by the interaction of relevant legislations of
228 back-feeding with social, political and economic elements in the operational process. It aims to keep a look out
229 of the disorder and chaos in the back-feeding agricultural activities and realizing ordered national governance,
230 economic development and social progress. It is comprised of the two elements of order of back-feeding agriculture
231 action and order of backfeeding agriculture relation. The order of back-feeding agriculture action requires the
232 actor to put actions into effect in accordance with legal setting or guided mode. For instance, the above
233 stated principles regulations of Chapter 6 and 7 in the Agricultural Law of People's Republic of China define
234 back-feeding agriculture action as compound actions of management and selfgoverning. The nature of action
235 decides the composite back-feeding way with government input and market allocation under the dominance of
236 government that should be establish in the back-feeding agriculture activities. The government should formulate
237 the mechanism of fund input, technology regurgitationfeeding and human capital formation; the market should
238 form industrial back-feeding mechanism to guide business enterprises to invest, produce and operate in agriculture
239 or rural areas, for bring about fund, technology and modern production elements such as advanced operation
240 idea, marketing mode and management methods for agriculture and the countryside. The order of back-feeding
241 agriculture relation refers to the specific legal relation of backfeeding agriculture generated on the basis of legal
242 regulations, mainly about the relations between rights and duties of the three parties which are the subject of
243 property right, the investment subject and the supervision subject of back-feeding agriculture. The subject of
244 property right is composite, consisting of the ownership adjustment among rural collective land and between
245 state-owned land and rural collective land, and the operational power adjustment among peasants' contracted
246 land, and adjustment of other rights occurred from adjusting the proprietary right or the right to use in the
247 operational process of back-feeding agriculture specific items. The subject of investment is polnary, including
248 national direct investment, farmers' autonomous input, business enterprises' participation and collective financing,
249 etc. The supervision work is complicated, including dividing the supervision limits of authority, redistributing
250 and redefining ways and procedure of related ownership adjustment, ownership examination and property right,
251 supervising the performance of the operation procedure of back-feeding agriculture specific item, supervising
252 the announcement of back-feeding agriculture specific items' scheme, and normalizing and confirming the agreed
253 supervision between the implementation party and relevant rights subjects.

254 On the other hand, as far as the benefit is concerned, the benefit of back-feeding agriculture activities demands
255 under the legal order of back-feeding agriculture the purpose of all the back-feeding agriculture activities is to
256 achieve social sustainable development by making the best of natural resources and increasing social wealth
257 to the hilt. The maximum benefits of back-feeding activities realized under the legal order of back-feeding
258 agriculture cover the maximum economic benefit, social benefit and environmental benefit. The main part
259 of realizing economic benefit is to achieve optimized disposition of relevant resources, and the standard of
260 evaluation contains back-feeding agriculture specific items' economic rationality and the contribution degree
261 to local economic development; achieving social benefit is mainly reducing Gini coefficient, improving peasant's
262 income level, promoting the employment of rural laborers and increasing the rate of household registration in
263 cities; realizing environmental benefit principally points to improving the producing and living surrounding of
264 agriculture and the countryside, building new villages of farmers, raising the coverage rate of green vegetation,
265 forest and grass, preventing soil erosion and land deterioration, perfecting landscape, eliminating environmental
266 pollution and so on. The final maximum benefit of realizing back-feeding agriculture means obtaining the relative
267 balance of urban and rural economic aggregate, promoting urban and rural unified sustainable development and
268 building the overall welloff society. ^{1 2 3}

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