



Paper Type: Original Article

# Land Transfers and the Optimisation Path of the Legal System

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## Abstract

The market for the transfer of land contract management rights has played an important role in the liberation and development of rural productive forces.The scale of rural land circulation has been expanding,and the circulation methods have been gradually diversified,mainly including subcontracting,leasing,exchange,shareholding and transfer.However,with the diversification of circulation methods,trust problems arising between various subjects of interest in the land process occur from time to time.Rural land circulation integrity problems affect the use of rural land resources and the process of circulation,so it is necessary to pay great attention to the integrity problems between the various subjects of interest brought about by rural land circulation.Therefore,the existing integrity problems of rural land transfer will be analysed,and the legal system optimization path of rural land transfer integrity problems will be proposed from three aspects.

**Keywords:** rural land transfer; land transfer;integrity problems; legal system optimisation paths

## **I. Introduction to the Problem**

The implementation of rural land transfer policies is aimed at addressing rural land issues, promoting rural economic development, solving rural labor employment issues, and facilitating economic restructuring. However, in the current phase of rural land transfer, there are significant challenges, such as unclear concepts within China's rural land transfer regulations, inconsistencies between historical and policy concepts with the legal framework, and a lack of abstract logic within the normative concept system. Additionally, farmers' rights are often jeopardized during land transfers, and protecting these rights remains fraught with difficulties. The root cause of these problems lies in the absence of integrity elements within rural land transfers. Issues such as informal agreements, verbal contracts, short-term arrangements, and arbitrary practices are prevalent. The frequent reliance on oral agreements rather than written contracts leads to unclear transfer periods and undefined rights and obligations for both parties. These factors contribute to the integrity issues observed in rural land transfers.

This paper, therefore, adopts the perspective of integrity among stakeholders in rural land transfers. It seeks to elaborate on the existing integrity issues by analyzing the lack of standardization and legalization in land transfer contracts and the non-standardized execution of these contracts. Subsequently, the paper delves into the causes of integrity issues and suggests pathways for optimizing the legal framework surrounding rural land transfers.

## **II. Existing Integrity Issues in Rural Land Transfer**

A review of relevant literature reveals two primary integrity issues in rural land transfer: the lack of standardized and legalized contracts and the non-standardized execution of land transfer contracts.

### **(A) Lack of Standardized and Legalized Contracts in Land Transfer**

Standardizing and legalizing rural land transfer contracts is crucial for the proper management of land transfers. This involves two main aspects: standardizing the content of rural land transfer contracts and legalizing their form.

#### **Lack of Standardized Contracts**

Some rural land transfers are predominantly based on oral agreements, with contract templates often lacking in standardization. Farmers may be unclear or cautious about the details of land transfer contracts during the process. Furthermore, the complexity of management and land use planning requirements necessitates a certain level of professional knowledge and experience, which many non-specialized land operators lack. Consequently, the contracts signed by farmers tend to be simple, with unclear provisions regarding both parties' rights

and obligations, and key elements such as land ownership, usage, rent, and transfer period are not explicitly defined. The contracts often only cover basic transfer terms, with little to no clauses addressing modifications, breaches, or dispute resolution, nor considerations for changes in contract value due to price fluctuations. Finally, the procedures for signing rural land transfer contracts and conducting transfer transactions are often non-standardized, lacking necessary legal formalities and processes, particularly concerning land acquisition and proof of land rights.

### **Lack of Legalized Contracts**

According to the "Regulations on the Management of Rural Land Contract Management Rights Transfer," Article 18 stipulates that when a contractor entrusts a transfer of land use rights to a contractor, intermediary organization, or other units, the transfer contract should be signed in writing by the contractor or their authorized agent. However, in practice, the land transfer process often does not adhere to the relevant legal requirements, resulting in inconsistent protection of rights, accountability, and breach handling within contracts. In some cases, informal land transfers occur among relatives without any formal agreement, including no oral agreement on the transfer period or even a "gentleman's agreement" on transfer fees. The failure to sign land transfer contracts in accordance with legal requirements results in a lack of legal basis, increasing the risk of legal disputes.

## **(B) Non-Standardized Execution of Land Transfer Contracts**

Non-standardized execution of land transfer contracts is another significant cause of issues in rural land transfers. This problem primarily arises from the bargaining dynamics between the parties involved in land transfer contracts, leading to issues such as pre-contractual unfair competition, non-compliance with contract terms after signing, and excessive land transfers.

### **Non-Compliance with Contractual Obligations**

In rural land transfers, protecting core arable land is a key concern. Contracting parties may violate land management regulations by excessively transferring core arable land or converting it to non-agricultural use, contravening the "Land Management Law" and privately altering the land's nature. Such actions lead to the "non-agriculturalization" and "non-grainization" of rural arable land, posing serious threats to national food security and degrading arable land quality, thus hindering the sustainable development of agricultural production land. Additionally, some contractors fail to pay land transfer fees on time, escalating conflicts between farmers and contractors, and potentially leading to unnecessary economic disputes. Lastly, the complexity of transactions involving multiple parties and interests, such as land interests and farmers' rights, increases the difficulty of contract execution, often resulting in breaches, rent arrears, and a lack of effective legal remedies and compensation mechanisms.

### **Unfair Competition**

Some contractors engage in illegal competition and infringe on others' legitimate rights during the contract execution process. Farmers, who are often at a disadvantage, may face inadequate protection of their land rights during transfers. Contractors may exploit information asymmetry to deliberately undercut land prices, leading to potential disputes, contract issues, and unfair compensation for farmers, adversely affecting their interests. Additionally, some contractors use intimidation, bribery of local government officials, and other unethical means to engage in unfair competition with other contractors. Such behaviors disrupt the rural land transfer market and undermine the implementation of rural land transfer policies.

### **Excessive Land Transfer**

A prevalent mindset among farmers is that land is their "lifeline" and "fallback option." This is mainly due to the current social security system in rural areas being insufficient to fully address farmers' concerns. As a result, some farmers lack a sense of security after land transfers, diminishing their enthusiasm for transferring land. However, some local governments and enterprises, driven by economic development goals, may push for excessive land transfers, leading to large-scale land acquisition and transfer, creating land shortages for farming families. Additionally, excessive transfer of core arable land or conversion to non-agricultural use could threaten food security and hinder sustainable agricultural development.

## **III. Causes of Integrity Issues in Rural Land Transfer**

The causes of integrity issues in rural land transfer can be attributed to three main factors: unclear understanding of contract content by farmers, weak contractual awareness among farmers, and unfair bargaining practices between land operators and transfer participants.

### **(A) Unclear Understanding of Contract Content by Farmers**

With the continuous development of the economy and society, the average age of rural labor engaged in agricultural production is relatively high, and their educational level is generally low. This demographic may encounter challenges in understanding complex legal terms or provisions in land transfer contracts, including terms related to rights, obligations, usage periods, and transfer fees. The lack of relevant legal knowledge or expertise can result in misinterpretation or misunderstanding of contract content, leading to misjudgment of their own rights or unnecessary concerns. When farmers' rights are infringed upon, they may be unable to recognize, resist, or actively defend their rights in a timely manner. Consequently, farmers may blindly follow others or sign contracts organized by local governments or village committees, without fully understanding the contract terms. This lack of awareness results in non-compliance with contractual obligations, further complicating land transfer contracts.

### **(B) Weak Contractual Awareness Among Farmers**

According to the theory of contract freedom proposed by the renowned British contract law scholar Atiyah, the concept of contract freedom includes two layers: first, contracts result from mutual agreement between the parties; second, contracts are the outcome of free choice. To meet the needs of social and economic development, the traditional Chinese contract spirit has gradually expanded its influence from the economic sphere to all aspects of social interactions, significantly impacting people's social lives and nourishing the Chinese national spirit. However, in rural China, farmers engaged in agricultural production at the household level generally have a low level of education and insufficient knowledge of land transfer. Some farmers may not fulfill their contractual responsibilities and obligations, showing a lack of seriousness toward contracts. Their limited understanding of land transfer-related laws, regulations, and policies leads to a lack of recognition of the importance of land transfer contracts and a reluctance to sign formal agreements. This lack of contractual awareness results in passive participation in contract drafting and review, insufficient protection of their rights, and a lack of sensitivity to contract terms. Consequently, farmers' execution of land transfer contracts is often lax due to their limited understanding and appreciation of the contract spirit.

### **(C) Unfair Bargaining Practices in Land Operation and Transfer**

Due to a lack of valuation benchmarks, the low productivity of traditional agriculture, and the disadvantaged position of farmers in land transfers, land transfer prices are often undervalued, failing to reflect the true value of the land. The incomplete rural land transfer market, coupled with issues like information asymmetry and high transaction costs, exacerbates this problem. Farmers involved in land transfers often face inadequate protection of their land rights, and unfair treatment or terms may go unnoticed or unchallenged due to unclear understanding of contracts. Some farmers experience disputes, contract issues, and unfair compensation after land transfers, leading to economic harm. The inability of farmers to accurately assess the risks and benefits of land transfer contracts exacerbates these challenges, resulting in an inequitable distribution of income between transfer participants and farmers, further fueling conflicts.

## **IV. Legal Optimization Pathways for Addressing Integrity**

### **Issues in Rural Land Transfers**

In response to the specific causes of integrity issues in rural land transfers, this section proposes three optimization strategies: legalization of transfer contracts, standardization of contract management, enhancement of legal awareness and contractual spirit, and ensuring transparency and fairness in the transfer process.

#### **(A) Standardization of Contract Management**

Standardizing contract management is essential for resolving issues related to rural land transfer contracts. As rural land transfers enter a peak phase with increasing diversity in transfer methods, managing these contracts has become progressively more challenging. Both parties involved in the land transfer should clearly specify the transfer period, method, price, responsibilities, and obligations within the contract. The contract should be recorded and filed to ensure the legality and compliance of the transfer. In special cases of land transfer, such as those between villagers or relatives and friends, a contract should be signed with the village committee and properly standardized, with the transfer also promptly reported to the relevant grassroots land transfer institutions.

Regarding the management of rural land transfer contracts, grassroots governments and relevant departments should categorize and integrate land transfer contracts based on the nature of the land and the transfer method, ensuring proper filing and preservation. For rural land transfer projects requiring government approval, administrative review processes should be strengthened to ensure fairness and transparency, with results publicly disclosed. Additionally, relevant departments should enhance supervision, using legal means to resolve disputes and promptly address and penalize illegal activities. For the contracting party (village collective), it is crucial to maintain a clear record of the status of rural land transfers, standardize contract management, and establish an online contract signing system that aligns with rural property rights reform and financial system innovation. This would include refining the selection mechanism for arable land transfer contracts and establishing an agreement system between households and village collective economic organizations (residents' committees).

## **(B) Cultivating the Contractual Spirit Among Farmers**

To enhance the legal awareness of parties involved in land transfer contracts, it is first necessary to strengthen legal education and publicity regarding land transfer contracts, improving farmers' understanding of contract content and their rights and obligations. Public awareness campaigns should be conducted in a manner that is accessible to farmers without compromising the essence of the contract, ensuring that the broader farming community is informed. Additionally, professional consultation and services should be provided to help farmers assess the risks and benefits of contracts and offer reasonable advice before signing. Strengthening technical training for farmers to enhance their professional knowledge and skills in agricultural production is also essential to improving their ability to fulfill contractual obligations.

Moreover, the importance of educating farmers on the significance and content of land transfer contracts cannot be overstated. Promoting standardized land transfer contracts will allow farmers to understand and sign contracts more conveniently. Encouraging farmers to participate in the drafting and review of contracts will increase their initiative and engagement in the contract signing process. Lastly, the behavior of land contractors should be regulated through legal means, and relevant legal knowledge and awareness should be disseminated to them to enhance their legal literacy and awareness. To foster a strong contractual spirit among land contractors, incentive mechanisms can be

introduced to encourage compliance with contract principles. Providing additional support and recognition to outstanding contractors could further motivate them to take on more responsibility and increase their productivity. Governments may also consider rewarding exemplary land contractors.

### **(C) Ensuring Transparency in the Transfer Process**

With the continuous development of information technology and the internet, it is crucial to make relevant policies, standards, and procedures related to land transfers publicly accessible through online platforms. Government departments can establish land transfer information platforms to facilitate the exchange and disclosure of information, thereby reducing information asymmetry. Additionally, grassroots micro-supervision platforms, such as the "Supervision Point" system, are increasingly being implemented in rural areas to strengthen social oversight mechanisms. This encourages the participation of social organizations, media, and the public in supervising and evaluating the land transfer process, helping to ensure the fairness of rights for all parties involved in land transfer contracts.

For issues such as unauthorized land reclamation by farmers, grassroots governments and village committees should conduct thorough inspections to prevent speculative activities during the land transfer process, ensuring the protection of both farmers' and contractors' legal rights. Before signing rural land transfer contracts, both parties should engage an impartial and independent land evaluation agency to assess the value of the land to be transferred, ensuring that the transfer price is fair and reasonable. Efforts should also be made to enhance farmers' ability to participate in land transfers and negotiate terms, while preventing the occurrence of corrupt practices or rights infringements during the transfer process. In cases of unfair practices or contract breaches, prompt legal consultation and assistance should be provided to both parties, alongside the establishment of a swift and effective dispute resolution mechanism that offers legal remedies and compensation measures. This will ensure that the rights of both parties are effectively protected and disputes are resolved promptly.

## **V. Conclusions**

Promoting the scaled development of rural land transfers and improving their efficiency requires safeguarding the rights of all parties involved in the transfer process. Addressing the integrity issues in rural land transfer contracts is a key measure for advancing rural land transfers. This approach will contribute to increasing the production of food and agricultural products, meeting the growing demand of the population, and helping rural farmers better participate in rural industry construction. It will also attract more investment, promote the diversified development of the rural economy, improve employment opportunities and income in rural areas, and maintain ecological balance, ensuring the sustainability of land resources. Additionally, it will protect farmers' land rights, reduce land disputes, and support the development of mechanized and intelligent



agricultural production, thereby enhancing land use efficiency. Ultimately, these efforts will foster the integration of urban and rural development and reduce the gap between urban and rural areas.

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