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A Legal Analysis of the Three Rights Separation and Its Impact on Farmers' Income Security in China

Billy Chan

QSI International School of Shenzhen, Shenzhen, Guangdong, China
billychan168@hotmail.com

Abstract. This paper conducts a legal analysis of China's Three Rights Separation (TTRS) reform and its implications for farmers' income security, with particular attention to legalized land rights and regulated land transfer. As codified in the Civil Code and the revised Rural Land Contract Law, TTRS divides rural land into collective ownership rights, household contractual rights, and transferable management rights. The study combines doctrinal analysis with a synthesis of secondary empirical research to examine how this legal structure affects rural livelihoods. It argues that the legal certainty created by TTRS facilitates investment in rural land, increases land value, and supports more stable income for farmers. The legalization of management right transfer also diversifies farmers' income through rental payments and non-agricultural employment, reducing dependence on a single agricultural income source. The paper further identifies implementation limits in the current framework, especially the weak bargaining power of transfer-out households and the prevalence of informal land transfers. It proposes further reforms to standardise transfer procedures, strengthen rights reversion remedies, and expand social security support for transfer-out households.

Keywords: three rights separation reform, farmers' income security, rural land transfer

1. Introduction

Land, as a critical means of production for rural households in China, its legal arrangement directly determines the stability of farmers' livelihoods. Income security refers to an individual's ability to have a stable income to meet basic needs in the long term, especially when sudden economic shocks occur. Farmers' income security is an essential measure for China, considering China's strong focus on common prosperity and rural revitalization.

A major legal reform of rural land in China is the China's Three Rights Separation (TTRS), which was initially proposed in 2014 and codified in law by 2019. As its name indicates, the reform splits rural land into three rights: ownership rights, contract rights, and management rights. Ownership rights belong to the households of the local village in a collective manner. Management rights can be transferred to developers, opening the channel for farmers to rent or mortgage their land freely. During times of land transfer, contract rights are nonetheless permanently retained to the individual rural household. In the past, China adopted a two-rights system, where contract rights and management rights were combined; with the shift to TTRS, contract security is ensured for farmers

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while management flexibility is enhanced. The reform thereby aims to clarify land property rights and to improve rural residents' overall welfare.

Acknowledging TTRS as a key reform under China's objective of common prosperity, the paper aims to evaluate TTRS's success in rural revitalization through the lens of farmers' income security.

The paper specifically examines how TTRS's mechanisms in clarifying land property rights increase the market value of rural land, and to what extent this translates into greater income security for farmers. The paper also investigates how, by promoting land transfer, TTRS leads to the diversification of farmers' income sources. While affirming TTRS's general positive impact on farmers' income security, the paper points out existing implementation limitations of the framework. Transfer-out households are limitedly protected within the new framework, as smallholder farmers have weak bargaining power and face legal issues with informal arrangements. Targeting the vulnerability of transfer-out households, the paper provides a line of possible improvements that the framework could adopt.

2. Separation of contract right and management right under the three rights separation reform

2.1. Legal basis for retaining the contract right

TTRS, under the featuring of Article 9 of the Rural Land Contract Law (2018 Revision), outlines the three legal rights of collective land ownership, household land contract right, and land management right. It is stated in the provision that a contractor "may either manage the land by itself or retain the land contract right while transferring the land management right of the contracted land to another person for management". This statement emphasizes the retention of contract rights in rural households, regardless of whom the operator of the land is. This marks a complete transition from contract and management rights being inseparable in China's previous two-rights system.

Beyond maintaining farmers' stable possession of their land contractually, the settings of contract rights further regulate the household registration processes. With TTRS, the contract term for rural land is extended to 30 years per legal provisions. A renewable option is further provided when the term expires. Regarding the settings of contract rights, its key feature is that it legally guarantees farmers' land security, as the original household permanently holds the rights. The law thus prevents the case where farmers lose the entitlement of their land entirely during land transfers. This directly addresses the main concerns of income security.

Meanwhile, the legal principle of collective ownership remains within TTRS to support farmers' full autonomy over their land. In Article 14 of the Rural Land Contract Law and Article 330 of the Civil Code, collective land ownership is featured as a right vested in the rural village collective. By retaining collective ownership, it ensures the legitimacy for farmers to own and allocate their rural land, despite the inability to transfer or mortgage the land. The key legal function of the rights lies in maintaining public ownership of rural land and ensuring social security for rural communities. By preventing land to be completely privatized, it forms the legal foundation for the most basic level of farmers' income security.

2.2. Legal space for the transfer of management rights

The land management right is a transferable property right created newly by TTRS, clearly featured in Articles 339-340 of the Civil Code and Article 37 of the Rural Land Contract Right. As codified in the law, this right legitimizes landholders to "possess rural land, conduct independent agricultural

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production and operation, and derive profits therefrom" within the contract terms. Unlike contract rights permanently held by the original household, management rights are freely transferable, rentable, and mortgageable in legal conditions. The secured land transfer by management rights serves the legal mechanism in promoting the market value of rural land.

The main way in which TTRS stabilizes farmers' income is by ensuring legal certainty and reducing disputes over land. Management rights, in its very nature, ensures the autonomy of farmers to transfer their land. It is explicitly addressed in Article 399 of the Civil Code and Article 36 of the Rural Land Contract Law that farmers may independently decide to transfer the management right through leasing, equity participation, or other legal means, without mandatory interference from collectives or local authorities. This sense of independence and autonomy enables farmers to seek for greater control over the terms of land transfer via negotiations. As farmers gain more satisfying rental and leasing income, income security is firmly enhanced. In support of long-term management rights separated with the contract rights, the mechanism of registration is set to counteract bona fide third parties. This legally reduces the risks accompanied by transactions, as bona fide third parties could claim ownership on unregistered rights. It is codified in Article 341 of the Civil Code and Article 41 of the Rural Land Contract Law that management rights with a term of five years or more are recognized to be registered. By clarifying the ownership rights and preventing land disputes, the registration process protects the greater rental and leasing income promoted by the management rights. Through eliminating potential legal risks that could risk the expected property income of farmers, legal dispute resolution is extremely important for income security.

3. Legal functions and empirical mechanisms of contract right retention in enhancing income security

3.1. Income growth: stable property rights promote investment and increase land value

Stabilized land rights have long been associated with higher farmer income and more stable income streams that mitigate external shocks. An empirical study has been conducted to investigate the impact of stable land property rights on farmers' income, with the use of the difference-in-difference model analyzing data from 9846 rural households from 2011-2020 [1]. The result of the study was clearly suggestive that stabilized land rights increase the income of rural households [1]. When laws stabilizing property rights are practically enacted, more robust results are observed [1]. The 30-year renewable contract term, a core feature of TTRS, may explain this income growth. As the certainty of ownership is ensured within the 30-year period, households have greater confidence to invest in the land.

The main way in which TTRS enhances farmers' income security is by directly improving the general income level of farmers. Specifically, when land rights are stabilized, the market value of land and economic efficiency of land use increase. In the long term, this translates into sustained income growth for farmers. The positive relationship between stable land rights and economic growth is affirmed by a vast multitude of empirical studies. A study conducted by Cao examines the impact of secure farmland property rights on long-term investment on land [2]. The research uses data across 1175 households in 5 provinces of China, analyzing the data using three different econometric models [2]. When there is greater security of farmland property rights, a substantial increase in both the probability and scale of farmland investment is observed [2]. Regarding the increased scale of farmland investment, this could be attributed to the registration system TTRS introduces. Farmers are encouraged to invest in larger scales as the risks of bona fide purchasers are eliminated.

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Existing empirical studies share similar results regarding secure property rights promoting investment, despite sampling different regions and adopting different analytical methods [3]. Besley found that more secure land property rights prompt farmers to make investments, and these investments typically improve the value of land [4]. Besley conducted his research in Ghana, which may represent the context of developing countries [4]. Some researchers also approached the topic in a reversed manner, where they examined how insecure farmland property rights reduce the incentives for investments [5]. The results are consistent with the previous studies [5]. Specifically, investors fear the reallocation of land when rights are insecure, thus engaging in less long-term investments [5]. Regardless of the context of countries, secure land rights guarantee investors with returns, thereby must facilitate investments. This linear logic explains the consistency in the results across different scholars.

Another explanation for the increased investments is the realizable effects, whereas transaction costs are reduced with secure land rights [3, 4]. Economic efficiency is a decent indicator of transaction costs, in which economic efficiency is often low with high transaction costs. With the survey sample of 456 farmers in the Yujiang District of China, a study found that TTRS enhanced the economic efficiency in the respective rural residential areas by approximately 8.9% [6]. The study points out that capital resources are critical for smooth land operations, and thus economic efficiency is enhanced with larger investment inputs [6].

A conclusion can thereby be drawn that TTRS secures farmers' income via facilitating investments. The facilitated investment then enhances both the market value and economic efficiency of rural land. Considering rural land as the worthiest property for most farmers in China, greater market value of land represents greater aggregate wealth of farmers [7]. Higher resource efficiency, on the other hand, enhances market productivity and directly increases income derived from agriculture. TTRS's legal framework plays an indispensable role for the efficiency improvement accounted, while its clarification of contract rights and management rights ensures the enhanced efficiency to translate into farmers' long-term income security. With the legal clarity established, farmers can rely on consistent long-term returns for their land assets.

3.2. Risk mitigation: the legal mechanism of land transfer enabling income diversification and livelihood adaptation

As TTRS legalizes the transfer of management rights while retaining farmers' contract rights, land farmers' land transfer is promoted, where farmers theoretically can earn income from sources including rental payment and formal wage income from non-agricultural employment. In the past decade, a multitude of studies have noted the influence of land transfer on farmers' income alongside the implementation of TTRS. In a recent study, researchers analyzed data from the China Family Panel Studies using a two-way fixed model, finding a positive influence of land transfer on farmers' income [8]. The study further notes that rural land transfer-in raises both agricultural and non-agricultural income, while crop land transfer-out increases non-agricultural income and decreases agricultural income [8]. In this context, the income diversification is well-protected by law, as farmers retain their contract rights despite transferring management rights.

The results are confirmed by a study based on 360 rural households in China in 2021, which uses the structural equation model (SEM) to analyze the income impact of land transfer [9]. The study affirms that TTRS indirectly increases the transfer-in household income, while directly pointing out that the transfer-out household income is negatively impacted [9]. This shows that, regarding the households that rent out land, the rental income alone may not compensate for the agricultural earnings lost, reducing the overall income. Specifically, the study discusses that irregular land

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transfer procedures and underdeveloped rural land transfer markets can limit the stability of farmers' property income, such as income from land rentals, which aligns with prior research [9, 10]. The short-term challenge highlights the role that TTRS legal provision plays in securing income security, as the legal requirements for standardized land transfer contracts (Articles 341 of the Civil Code, Article 41 of the Rural Land Contract Law) can ensure rental income is paid legitimately. In comparison, the off-farm income has an increasing significance in determining the income level of farmers.

Nevertheless, studies further point out that the transfer-out households show limited success in shifting to non-farm labor, demonstrating how the expected benefits of diversification fail to materialize strongly for this group at present [11]. In long-term prospects, however, the increasing farmland productivity may translate to increased welfare for transfer-out households via pursuing non-farm employment [11]. Nonetheless, not considering the impact of income diversification on the general income level of rural households, TTRS directly enhances income security via reducing reliance on a single income source to buffer against risks. The legal retention of contract rights rather provides farmers with a fallback option: farmers can reclaim management rights and resume agricultural work if non-farm employment fails, demonstrating the resilience of their income security.

3.3. Equality enhancement: how land transfer moderates income disparity

Rooted in past literature, land transfer promoted by TTRS sparks discussions on the risks of income inequality. Clearly, research is evident that TTRS grants transfer-in households more income than transfer-out households. Han report that households earning high on-farm income are more motivated to expand the size of their farm via land rental, while households with moderate income levels may gain more by renting out their land [12].

While past literature on foreign countries suggests that land transfer can rise income inequality via more severe land concentration, mechanism testing and empirical panel data analysis from Zhang reject the notion's generalizability in the case of China [7]. Zhang attribute this to the difference in land ownership systems between countries, where land is collectively owned in China under TTRS [7]. In other countries with private ownership of land, land transfers may resemble outright purchases, which can engender land concentration and risk income inequality. In contrast, legal land transfer in China only involves contract and management rights instead of ownership, the transaction is more restricted and reversible. Researchers specifically noted that land transfer reduces income inequality in rural China, and the conclusion remains valid after the application of robustness tests via the 2SLS model and consideration of endogeneity issues [7].

Entrepreneurship is a mediating factor that accounts for the impact of land transfer on farmers' income inequality, as land transfer asserts a positive impact on entrepreneurship [7]. When farmers engage in land transfer, they are exposed to new entrepreneurial opportunities either by gaining or exiting their access to land. Transfer-in households have the chance to scale up their production in the agricultural sector, while transfer-out households may redirect their investments toward non-agricultural production. The issue of income inequality is mitigated when farmers have the equal opportunity to engage in entrepreneurship.

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4. Practical limitations of contract right retention

4.1. Weak bargaining power and high transaction risks for transfer-out households

As research has revealed, transfer-out households may not immediately gain higher income with the retention of contract rights [13]. This reality cannot be fully attributed to the design of TTRS itself. Rather, the specific context of China mediates the situation. In China, smallholders possess limited bargaining power in the rural land market. The root cause of this is the phenomenon of asymmetric information, where smallholder rural households lack full access to information regarding the land market. With incomplete information about the actual value of their land rights, transfer-out households cannot bargain on prices in an effective manner. The asymmetric information further amplifies farmers' vulnerability toward exploitative practices, such as rent offers that are below market prices without farmers' awareness. As a result, farmers are more exposed to external economic shocks with weak bargaining power.

Moreover, informal land transfer practices are prevalent in China's rural land arrangements, which compound the repercussions of asymmetric information. The registration system, while addressed clearly in the law itself, is often underdeveloped or unfamiliar to farmers in many rural areas in China. Thereby, many transactions are conducted orally or with informal contracts. Land disputes emerge with these informal arrangements, and such disputes are difficult to be addressed legally. Transfer-out households bear the risks of their property rights being disputed, or the informal agreements unilaterally breached.

Furthermore, high transaction costs act as a barrier to discourage households from transferring out land. During the process of transfer-out, households need to cover the costs derived from searching for purchasers, negotiating prices, and verifying the transaction of rights. Specifically in the process of verifying property rights, farmers are likely to face difficulties with a lack of legal expertise. The absence of reliable local land service institutions also adds to the difficulty. These heavy excessive costs discourage the act of transferring out land. Noting transfer-out as the premise for transfer-in, the transaction risks are detrimental to the circulation of land.

4.2. Informal transfers weaken the protective effect of legal clarification

The prevalence of informal transactions further weakens TTRS's general efficacy in protecting the income security of rural households. With the core feature of lacking legal enforceability, informal arrangements disable the operation of formal land registration stipulated in Article 341 of the Civil Code and Article 41 of the Rural Land Contract. Against the challenges of bona fide buyers, farmers struggle in ensuring the possession of management rights. These effects direct most straightforwardly to transfer-out households, as their contractual claims lack priority in subsequent legal disputes [9].

The protective effects of TTRS are further compromised by ambiguous obligations, such as undefined rental periods or other critical terms, which can subsist without formal documentation. As Xin and Pearce note, informal transactions in China are often based on long-term personal relationships [14]. When personal relationships dictate a transaction, the arrangement of the transaction becomes vulnerable when external conflicts happen. For instance, when the leadership of a village changes, land disputes can emerge from the arrangements based on relationships. Many of the major cases of land disputes in China's history, such as the Wukan Village Disputes and the Beijie Village Land Expropriation, arise from the informal arrangements of land transfers. Informal agreements between villagers were mutually breached across these disputes. Farmers lack self-

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protection mechanisms against others breaching agreements, as the arrangements lack legal enforceability. Another issue with China's rural land management is the lack of official records. Some farmers registered their land while not receiving official records due to implementation issues. Without official records, farmers are left with minimal support from land service institutions. This aligns with the findings of Min, which point out how informal transfers may lead to economic vulnerability of rural households [10].

5. Pathway for improvement

5.1. Strengthen the regulation of transfer contracts and procedures

Due to reasons of weak bargaining power and high transaction risks of land transfer, the security of farmers' property income is threatened, specifically in the case of transfer-out households [9]. The most direct solution to address informal arrangements is by enhancing the regulation of formal procedures. A straightforward approach would be mandating land transfer transactions to be conducted with a standardized contract. It is crucial for the law to explicitly stipulate that land transfers exceeding a certain transaction amount must be conducted in a written form, considering the ambiguities that arise with oral arrangements. Within the written contract, laws could further mandate specific clauses included that address the common ambiguities, such as rental price, duration, and the method of payments.

Another solution is ameliorating the current registration system under Article 341 of the Civil Code, specifically regarding the accessibility and efficiency of the system. Currently, many farmers remain not fully aware of the registration process and face difficulties in registering. A solution to address this is by setting up local land service institutions, where key services including contract review and registration assistance could be provided to the public. As registration difficulties are managed and transaction costs are reduced, formal registration will become a natural choice for farmers. The risks regarding third-party bona fide buyers would also be mitigated as the enforcement of contracts is formalized.

5.2. Enhance the reversion and remedy mechanisms after retaining the contract right

Under TTRS, contract rights are permanently retained by rural households while management rights are transferred. This is the key mechanism for TTRS to safeguard farmers' livelihood stability. Nevertheless, there has been an absence of clear contract reversion and remedy mechanisms within the current framework, in which farmers cannot resume agricultural production without the management rights being reclaimed [15]. Enhancing reversion and remedy mechanisms thus lies as a critical measure to be taken. Specifically, statutory processes for management right reversion should be formulated with the clarification of applicable scenarios and time limits. To make this fully implementable, circumstances that justify the reclamation of management rights should be explicitly stated. This can include contract breach, contract expiration, or illegal land use of the transfer-in household. These circumstances need to be operationally defined and fully explained in detail, so that land disputes can be prevented to the largest extent. Furthermore, this could work in conjunction with the local land service institution established, where such institutions are expected to provide assistance services for legitimate demands of reversion.

Alongside this, an effective legal remedy system for infringements of contract rights could be established. When there are disputes in the process of right reversion, dispute resolution mechanisms should take place. This ensures efficiency and that farmers' costs to protect their property rights are

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reduced. A great approach to this is drafting up committees specialised in rural mediation or pursuing direct judicial proceedings. Moreover, sanctions should be comprehensively developed for acts that infringe farmers' contract rights, such as the refusal to return management rights. Legal aid services could be further provided to transfer-out households with considerably low income security, supporting these households to protect their retained contract rights. Nonetheless, an index assessing the farmers' income security remains a logistical challenge for this solution.

5.3. Provide supporting employment and social security for transfer-out households

The income security of transfer-out households not only depends on the stability of their land rights, but also on their gains from non-agricultural employment. As Xu have pointed out, transfer-out households show limited success in shifting to non-farm labor [11]. This reality occurs with farmers' limited skills and the lack of social security support they receive. The most direct way in addressing farmers' limited skills is the formulation of vocational training programs. Local governments could collaborate with industries to design training programs for sectors with relatively stable employment and income. This training content must be aligned with the current market's demand and future prospects. In addition, employment platforms could be established to bridge trained workers with employment opportunities. As entrepreneurship shows success in mitigating income inequality, farmers interested in entrepreneurship should be encouraged [13]. The government could support these households by offering tax incentives and microfinance programs [13].

Beyond vocational training, a more comprehensive social security system should be developed. Traditionally, farmers could rely on land as a form of social security. However, as farmers transfer management rights, this security no longer exists. Thus, welfare services should be expanded both in terms of the benefits and the scope, such as pension and medical insurance. As the government aims to establish long-term, continuous protection, mechanisms for urban social security portability could be improved. This would ensure smooth urban integration for transfer-out households. Ideally, such a transition would eventually replace land's traditional function as security with formal protection.

6. Conclusion

This paper has legally analyzed the TTRS reform in China with a synthesis of empirical evidence, focusing on its direct and intricate impact on farmers' income security. As a major institutional reform in China's recent rural governance, TTRS has legally codified the three distinct rights within the 2018 Revised Rural Land Contract Law and the Civil Code. Clearly, the reform establishes a more enforceable legal foundation for the transaction of rural land and the protection of farmers' livelihood. The analysis confirms that TTRS protects the income security for Chinese farmers through two main mechanisms: first with the enhanced legal certainty stimulating agricultural investment and boosting resource efficiency, increasing the market value of rural land that drives long-term income growth for households, second with the legalization of land transfer diversifying income sources of farmers, including rental income and non-agricultural employment, that reduces farmers' over-reliance on a single income source.

The research further points out the limitations of the current legal framework in implementation, which mainly revolves around the protection of transfer-out households. With weak bargaining power and high transaction risks, transfer-out households struggle to protect their property rights. Unsuccessful shift to non-agricultural sectors due to limited skills further exacerbates the issue. To address these concerns, the paper recommends the government to strengthen the regulation of formal

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contract procedures, promote clear contract right reversion mechanisms, and offer more comprehensive social security protection to migrant workers.

The main limitation of this study lies in the methodology adopted, where the analysis heavily relies on secondary data from existing academic research. To ensure the alignment of the findings with reality, primary fieldwork could be introduced to investigate TTRS's actual impact on rural livelihoods, exploring gaps such as uneven access to formal land transfer markets and barriers to non-agricultural employment for transfer-out households. Another major limitation of the study is that it conducts its analysis on a household level, where future research could study the varying effects of the policy across different types of households. Despite these limitations, this research is conclusive on TTRS's transformative impact on farmers' income security in China, with insights to optimize China's rural land policies and achieve sustainable rural development.

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