

# The Game of Changes in Property Rights and Its Principles after the Confirmation of Rural Land Rights

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**Abstract.** Since the implementation of the rural revitalization strategy of China, the rural land contracting rights have been fully confirmed. However, after strict property rights confirmation, in the process of deepening rural revitalization, there will still be significant changes in the order of rural land property rights, and new interest game and problems will arise. This game has spontaneity based on fair judgment, arbitrariness in approach, and reflects the inherent entanglement between the ownership and contracting rights of rural land after it is confirmed. We should apply the principles of balancing efficiency and fairness, especially the principle of fairness within the village, the dual property rights principle of balancing rural land ownership and contracting rights, and the principle of balancing the rule of law, autonomy, and village conditions, to reasonably regulate and guide major changes in property rights after the confirmation of rural land rights.

**Keywords:** Confirmation of rural land rights; Ownership; Contracting rights; Game; Fairness within the village; Dual property rights and interests; Principle.

## 1. Preface

In China, with the strict implementation of land rights confirmation under the dual mission of rural revitalization and urbanization, the vast majority of farmers have already acquired property rights and interests in contracted land within their villages, such as contracting and management rights, which are protected by both laws and policies. However, in the process of comprehensive rural revitalization, a series of necessary spatial requirements for construction measures disturb the seemingly orderly and even static state of rural land property rights established through property rights confirmation. At this time, from the perspective of villages and farmers, there are significant changes in the property rights of rural land. The significant changes in rural land property rights involve significant changes in the rights and interests of village collectives, village cadres, and farmers, and trigger game behaviors among these rights holders. By analyzing the characteristics and consequences of this game behavior, and proposing targeted normative principles, it will be possible to provide rational guidance for significant changes in property rights after the confirmation of rural land rights.

## 2. Rural land Contracting and Rural Land Property Rights

China has established the overall order of rural land contracting and management through policies and laws and regulations, but in the actual production and operation process of rural land, the specific forms of rural land contracting and rural land property rights are constantly evolving. <sup>[1]</sup>

Starting from the late 1970s and early 1980s when rural land contracting was implemented, for a considerable period of time, the relationship between farmers and specific contracted land in the village was generally cyclically adjusted in terms of quantity and spatial distribution. Periodic adjustment is the process of disrupting the specific division of contracted land for farmers and redistributing it according to population changes. The fundamental reason for doing so is that in the early stages of land contracting, rural land was the main or even only source of income for farmers. Farmers attach great importance to the fair distribution of land contracting rights. As time passes, there will be changes in the population within the village. So the allocation of contracted land needs to be adjusted in terms of quantity and space. New population farmers have an urgent need to adjust the quantity and spatial distribution of land contracting as soon as possible, while farmers with

deceased populations hold a negative attitude, which can trigger a game of interests. During this period, the greater interest game in rural land contracting was in the division types of land subcontracting. The types of land subcontracting can be divided into two categories based on their nature: the portion allocated according to the average population and the portion allocated through competitive contracting. The latter requires more contracting fees than the former. Villagers tend to distribute more according to the average population, while village collectives and cadres tend to allocate a considerable proportion of rural land for competitive contracting in order to obtain more disposable resources.

Starting from 2006, the rural tax was completely abolished nationwide, and various additional fees levied by rural areas attached to the rural tax were also completely abolished. At the same time, all competitive contracting fees were eliminated. This has led to new contradictions in the distribution of rural land property rights, mainly reflected in the significant increase in the share of rural land among farmers who previously obtained competitive contracted land compared to other farmers. Farmers with more land advocate maintaining the status quo, while those with less land strongly demand a re-allocation of land. Due to the fact that rural land contracting no longer bears any taxes and fees, it is in line with objective and fair principles to divide contracted land equally among the population. Therefore, after the cancellation of rural taxes, there is still a common readjustment of the quantity and space of rural land contracting in rural areas. However, the cycle of each adjustment becomes irregular, and the cycle becomes longer and longer.

In the new era since the 18th National Congress of the Communist Party of China, adapting to the improvement of rural productivity, the reshaping of urban-rural relations by industrialization and urbanization, there have been significant changes in rural land contracting and property rights. Overall, this change is to fix the quantity and spatial distribution of rural land property rights with individual farmers through the continuous strengthening of policies and laws, and strengthen the property rights of farmers over contracted land through the effective implementation of land rights confirmation. In recent years, especially since the implementation of the rural revitalization strategy, the intensity of this policy has been unprecedented, leading to the basic disappearance of cyclical adjustment activities of rural land property rights. The quantity and spatial stability of individual rural land property rights of farmers ensure the property rights order of implementing moderate scale rural management under new productivity conditions, and to some extent, it is also conducive to dispelling the land concerns of farmers settling in cities.

Since China's reform and opening up, the order of rural land contracting and rural land property rights has originated from the inherent logic of rural production efficiency. However, in the large institutional order determined by the state, the phenomenon of spontaneous game and adjustment of rural land contracting and rural land property rights in village society is based on the fairness of resource allocation from a village perspective. Sometimes it even breaks through the policy and legal requirements of long-term unchanged land contracting rights, but takes into account the fairness of rural land property rights distribution among farmers in the village while not compromising the country's demand for rural land efficiency, thus making it a common occurrence. With the rapid development of modern rural productivity in the new era and the diversified income of farmers brought about by urbanization and industrialization, the country has truly fixed the quantity and spatial distribution of rural land rights among farmers through strict implementation of land rights confirmation. Under the actual conditions of rural agriculture in the new era, farmers can also accept this. <sup>[2]</sup> However, after strict land rights confirmation, in the process of deepening rural revitalization, the property rights status is not entirely the orderly, standardized, and even static linear correspondence between rural land property rights and individual farmers as imagined by policies. Instead, the relationship of rural land property rights will still undergo significant changes, and new interest games and problems will arise. This article will dissect a practical example of a village in T County, S Province, which the author has observed and studied for a long time, in order to explore the interest game situation and its benefits and losses when there is a significant change

in rural land property rights after the confirmation of rural land rights, in order to provide reasonable suggestions for such significant changes.

### **3. Three Major Changes in Rural Land Property Rights in L Village, T County, S Province after the Confirmation of Rural Land Rights**

Village L is located in the plain area, with a registered residence population of 1225 by the end of 2023. The total arable land in the village is 515 acres, which is divided into first level land, second level land, and third level land according to the soil fertility from high to low. Except for the flexible land reserved for the new population, each level of land is allocated equally to villagers for contracted management based on population. The last time L Village adjusted its land was after the autumn harvest of 2011, and there has been no further adjustment since then. In 2019, after the 19th National Congress of the Communist Party of China, L Village completed the work of land certification and rights confirmation. With the promotion of the rural revitalization strategy and the development of the economy and society, L Village experienced three major disruptions to the order of rural land contracting and rural land property rights in 2019 and 2020.

The first time was in 2019 when T County expropriated 46.2 acres of rural land from L Village for the construction of a reservoir. These 46.2 acres are the first level land of L Village, which is part of the reserved flexible land during the land rights adjustment in 2011. 46.2 acres of land in L Village have been expropriated by T County for the construction of a reservoir. The compensation method is to compensate RMB12121 yuan per acre annually. The compensation for reservoir land occupation brings RMB560000 yuan in compensation income to L village every year. The villagers believe that the 46.2 acres of flexible land belong to the nature of everyone having a share, so the compensation should be evenly distributed to each villager according to the number of people. Village cadres believe that the compensation comes from the occupation of flexible land, and the contracting relationship of flexible land is not specific to the villagers, but belongs to the collective. Therefore, the annual compensation of 560000 yuan should be allocated and used by the village collective. Although the villagers have formed consensus and public opinion, the village autonomy mechanism in L village has not played a role, and the opinions of the villagers have not been formed into legal resolutions through the form of village meetings. The annual land occupation funds are ultimately managed and used by the village collective.

The second time was in 2020 when S Province planned a highway to pass through T County and expropriated 33 acres of rural land in L Village. The 33 acres of rural land belong to the contracted land divided equally by population, and have been certified and confirmed, involving more than 30 households in L Village. The compensation policy is to provide a one-time compensation of RMB360000 yuan per acre. But there is still fierce controversy over how to allocate this compensation. L village cadres believe that although the target land for expropriating land on the expressway belongs to the contracted land that has been certified and confirmed by more than 30 households, in terms of ownership, the land still belongs to the village collective, that is, to all villagers. The contracted land of more than 30 households only happened to have obtained the rural land contracting right in the location during the land contracting process. Therefore, a certain proportion of the huge compensation should be set aside for public use, and the compensation should cover the annual net income of more than 30 households from rural land operations until they are re-contracted. Then, the vast majority of the compensation should be distributed to all villagers on a per capita basis. Except for more than 30 households involved in land acquisition, the vast majority of villagers expressed their support in writing for the opinions of village cadres and collectives. However, when the highway construction party was preparing to start construction, more than 30 households involved in land acquisition directly entered the construction site to prevent construction, and the process was peaceful. However, the requirement was clear that engineering construction could not be carried out on their contracted land before the compensation money was paid to the households. After the government's intervention and coordination, it was

ultimately decided to directly compensate the full amount of compensation to farmers with land contracting rights. Regarding this, L Village has decided that more than 30 households involved in land acquisition are permanently prohibited from participating in land contracting within the village.

The third time was also in 2020, when L Village transferred 90.95 acres of its third level land to enterprises. The enterprise intends to obtain the land management right of L Village to develop characteristic agriculture, and pays an annual rent of 6000 yuan per acre. The village cadres have decided to allocate rent directly to households based on the allocation of land contracting rights. After the village cadres formed a preliminary plan, they obtained written consent from each household of farmers. Afterwards, the village cadres of L village represented all farmers and completed a series of procedures for land transfer with the enterprise. There has been no dispute regarding the changes of rural land contracting and rural land property rights this time.

The three changes in rural land property rights mentioned above account for approximately 11%, 8%, and 22% of the total rural land in L Village, totaling 41%. These are significant changes after the confirmation of rural land property rights in L Village. The interest game in the process of changing rural land property rights involves complex relationships between villagers, villagers and village collectives, village cadres, The problems contained and accumulated in it will have many potential impacts on the future arrangement of rural land property rights.

#### **4. Analysis of the Characteristics and Problems of the Game**

After the confirmation of rural land rights, farmers' rural land rights are clearly protected by policies and laws and will remain unchanged for a long time, providing the underlying institutional framework for China's rural revitalization strategy and rural Chinese path to modernization. However, in turn, the in-depth implementation of the rural revitalization strategy and the expansion of Chinese path to modernization in the countryside will react spatially on the rural land contracting and rural land property rights order, bringing about a more general and significant change in the property rights order from the perspective of farmers. The significant changes in property rights order have triggered interest disputes and games.

##### **4.1 The Game after Confirming the Rights of Rural Land is a Spontaneous Behavior of the Subject of Rural Land Property Rights in Rural society based on fair judgment**

After the confirmation of rural land rights, when there are significant changes in the rights, the specific interests of the village collective and its cadres, as well as between the village collective and its cadres and villagers, and between villagers and villagers, may not be completely consistent or even conflict. When relevant subject judge that the distribution of interests is unfair, the game naturally arises spontaneously. The national rural land contracting policy and its corresponding laws, such as *the Rural Land Contracting Law*, have not left much space for the game of rural land property rights, but this game actually occurs. The game in the change of rural land property rights after property rights confirmation often breaks through the clear provisions of relevant policies and even legal norms at the micro level. This indicates that village society has its own inherent logic of operation. Therefore, in rural governance, it is not necessary to simplify the understanding of rural village society. Instead, it is necessary to deeply and specifically grasp the village social ecology and its internal operating mechanism, and continuously improve the relevance of policies and laws.

##### **4.2 The Game after Confirming the Rights of Rural Land Reflects the Inherent Entanglement between the Ownership and Contracting Rights of Rural Land**

The academic community has highly praised the reform of the rural land property rights system characterized by the separation of three rights in recent years, and believes that it has indeed clarified the boundary between collective ownership and farmers' contracting rights. [3] However, when facing significant changes in the order of rural land property rights, the interest game between

village collectives, village cadres, and villagers is actually taking place. This indicates that there is an inherent and difficult to separate relationship between the ownership and contracting rights of rural land, that is, there is a profound internal entanglement between the ownership and contracting rights of rural land. When the form of rural land corresponding to the contracting rights undergoes irreversible changes, such as when L Village's rural land is used for the construction of T County's reservoir and highway, it will trigger a game of interests in the village society regarding the huge land acquisition compensation. Obviously, in the real game, due to the specificity of the village's social ecology, the actual game results may have diversity, but it indicates that the separation of rural land ownership and contracting rights cannot reasonably solve all problems. The academic community and policy makers should further explore the dialectical relationship between rural land ownership and contracting rights, in order to provide rational guidance when there is a conflict between the two.

#### **4.3 The Game Method after Confirming the Rights of Rural Land Has Arbitrariness, and the Value of the Village Autonomy Mechanism Has not been fully Utilized**

The significant rights changes after the confirmation of rural land property rights fall within the scope of village autonomy. However, in reality, there is a problem of insufficient effectiveness in village autonomy. When significant changes in the rights of rural land cannot be released through the mechanism of village autonomy, relevant subjects will strive for their own rights and interests in ways they feel feasible. More than 30 households in L Village whose land were expropriated due to the construction of highways have adopted the method of settling in their own contracted land to prevent construction, and have received all the compensation benefits from land acquisition. Through the mechanism of village autonomy, sufficient communication and exchange within the village society can be achieved, and effective game equilibrium can be achieved within the existing governance system platform. This is the only way to avoid the arbitrariness in the game of property rights order changes after the confirmation of rural land rights. Therefore, the issue of the virtualization of village autonomy should be given attention.

### **5. The Principle of Regulating Significant Changes in Property Rights after the Confirmation of Rural Land Rights**

After the confirmation of rural land property rights, under the disturbance of spatial demand for land in rural revitalization and economic and social development, the order of rural land property rights will still undergo significant changes. The changes in property rights involve the interests and gains of different rural land rights entities, which can trigger a de facto game. Therefore, significant changes in property rights after the confirmation of rural land rights require necessary norms and reasonable guidance. This regulation and guidance should follow the following important principles.

#### **5.1 The Principle of Balancing Efficiency and Fairness in the Establishment of Rural Land Property Rights, especially the Principle of Fairness within the Village**

The rural land contracting and the confirmation of rural land property rights remain unchanged for a long time, and the institutional design is efficient, which can effectively serve the strategy of agricultural development and rural revitalization. The confirmation of rural land rights has indeed endowed farmers with various forms of rural land property rights, increased their property income, expanded their income channels and common prosperity paths, and reflected the principle of fairness. But it is important to distinguish between fairness from the perspective of urban and rural areas and fairness within village society, as the two are not completely consistent. Fairness from the perspective of urban and rural areas refers to placing farmers as a whole in the urban-rural relationship to position their fairness. By empowering farmers, they can obtain an initial state of equal rights, enhance their ability to participate in economic and social development, sense of

happiness, and security. But farmers are not only a holistic concept that can be compared in urban-rural relations, but also a concept composed of countless individuals. The relationship between them is not simply a consensus of interests, but there are objective conflicts of interests between village cadres and farmers, as well as between farmers and farmers. The game in the significant changes in property rights after the confirmation of rural land rights reflects this. Therefore, the formulation of rural land property rights policies and laws should not only position farmers as a whole in the urban-rural relationship to ensure fairness, but also delve into the actual situation in rural areas and pay attention to the fairness within the village between village cadres and farmers, as well as between farmers and farmers.

## **5.2 The Principle of Balancing the Dual Property Rights and Interests of Rural Land Ownership and Contracting rights**

The collective ownership of rural land and the contracting rights of farmers cannot be completely separated when facing the irreversible loss of land space corresponding to property rights. Collective ownership of rural land corresponds to the public order of all villagers, while the right to contract corresponds to the individual needs of each villager. These two are all important. Therefore, in the major changes in the property rights order after the confirmation of rural land rights, the benefits of changes cannot be fully attributed to individual farmers, nor can they be fully attributed to village collectives. Instead, they should be divided in an appropriate proportion, and the state should provide a bottom line ratio. If there is a specific floating division, it should be determined by the village collectives and villagers. Under the principle of dual property rights, it is necessary to supervise the use of collective ownership benefits. One is to strengthen the transparency of the use of the ownership benefits collected by the village collective, in order to avoid the infringement of collective benefits by corruption of village cadres. The second is to fully leverage the sustained endogenous value of these resources in the provision of village public order and public goods.

## **5.3 The Principle of Balancing the Rule of Law, Autonomy, and Village Conditions**

In terms of rural land contracting and rural land property rights, the Rural Land Contracting Law is the most basic legal basis. In the context of rural revitalization, the compensation and distribution of benefits in the acquisition of rural land, although various versions of the Rural Land Contracting Law clearly state that "if contracted land is lawfully expropriated, requisitioned, or occupied, the rights subjects have the right to receive corresponding compensation in accordance with the law", still causes significant interest disputes in rural social practice. Therefore, it is necessary to combine the village situation, based on the basic principles of efficiency and fairness, into continuously optimizing the rural land contracting law. The significant changes in rural land contracting and the order of rural land property rights, while adhering to the rule of law, should leave room for self-regulation in the village autonomy mechanism. However, the prerequisite is that the autonomous mechanism needs to be further optimized and effectively concentrate the general wishes of villagers. Both the operation of laws and autonomous mechanisms should be fully based on village conditions and the expectations of the majority of villagers. Only by implementing the principle of combining the rule of law, autonomy, and village conditions can a reasonable governance approach be provided for the game of major changes in property rights after the confirmation of rural land rights, and a reasonable and harmonious good order for major changes in rural land property rights can be formed.

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