

Research on the Development of Leisure Agriculture and Rural Tourism and Legal Regulation Issues under the Background of Rural Revitalization

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Abstract: Since the implementation of the strategy for leisure agriculture and rural tourism, various regions in China have shown diverse development trends. Despite this, practical difficulties and legal issues persist. Particularly in the areas of administrative supervision, land transfer, contractual systems, and tort liability, existing laws and regulations still need further improvement for efficient and scientific regulatory management. To promote the healthy growth of rural tourism, the primary task is to strengthen regulatory agency construction and clarify the scope of powers and responsibilities to enhance government supervision. Additionally, the establishment of land transfer systems and clarification of property rights are essential legal measures to regulate land transfer. Furthermore, improving contractual systems and defining tort liability regulations can effectively address issues related to leisure agriculture and rural tourism contracts and tort actions. By studying the shortcomings of the current legal system and proposing solutions, the aim is to achieve robust development in China's rural economy and the implementation of rural revitalization.

Keywords: rural revitalization, leisure agriculture, rural tourism service contracts

1. Introduction:

Leisure agriculture and rural tourism industries in China are experiencing rapid and robust development, becoming a crucial economic sector actively promoted by the government. This industry's rise not only propels rapid economic growth in rural areas but also promotes the integrated development of the primary, secondary, and tertiary industries in rural regions. However, along with its development, a series of complex problems and challenges have arisen that the existing legal system cannot fully address. Therefore, the formulation and improvement of relevant legal systems to coordinate and regulate the development of leisure agriculture and rural tourism have become issues worthy of in-depth consideration and exploration. Through a comprehensive analysis and discussion of the legal systems governing leisure agriculture and rural tourism, this research aims to provide guidance and recommendations for the sustainable development of this industry. Additionally, it seeks to contribute beneficial insights to improving China's legal system and adapting to the development needs of emerging industries. In the hope that through this research, the

standardized development of leisure agriculture and rural tourism industries can be promoted, achieving a dual enhancement of economic and social benefits. This will actively contribute to the transformation and upgrading of the rural economy and the implementation of the strategy for rural revitalization.

2. Current Challenges Facing China's Tourism Industry:

2.1. Difficulties in Attracting Foreign Investments:

The development of leisure agriculture and rural tourism industries relies not only on self-investment from residents and rural cooperatives but also on the introduction of external capital to facilitate progress. While self-investment can fully utilize local natural resources and cultural characteristics for business, it may encounter challenges such as a lack of management skills and insufficient operating funds, hindering expected progress. On the other hand, attracting external investment can provide advanced business concepts and technological innovation, expand financing channels, enhance income paths for farmers, improve rural governance structures, and build a harmonious community culture. This can increase the operational efficiency of leisure agriculture and rural tourism, alleviate the operational burden on farmers, and facilitate resource sharing, mutual benefit, and cultural and intellectual exchange between local and non-local investors. [1]

However, the current legal system in China does not adopt an open attitude towards foreign investment in the leisure agriculture and rural tourism industry [2], introducing uncertainty and obstacles for foreign investors. To change this situation, it is necessary to open up foreign investment in the legal system, providing a better investment environment and policy support to stimulate their enthusiasm for investing in these fields. By reducing legal restrictions on foreign investment, we can further promote the development of leisure agriculture and rural tourism, accelerate the transformation and upgrading of this industry, and achieve better economic benefits and income growth for farmers.

2.2. Land Resource Shortage

Despite the crucial importance of land for the development of leisure agriculture and rural tourism, the persistent issue of land resource shortage continues to hinder the progress of this industry. This problem is mainly attributed to the excessive emphasis on land ownership in current laws and regulations, neglecting legal protections during the use and transfer of land, thus restricting the effective utilization of land resources. Leisure agriculture and rural tourism industries rely on the development and utilization of rural land, combined with rural characteristics, to achieve the modernization of rural areas and diversified agricultural development. However, the current land issues faced by leisure agriculture and rural tourism industries manifest in several aspects:

Firstly, due to the irrationality of land policies, the development of leisure agriculture and rural tourism faces restrictions and bottlenecks in land use. Furthermore, the irrational layout of land makes it challenging to effectively utilize the land required for the development of leisure agriculture and rural tourism. Lastly, inconvenient land transfer limits the scale benefits of land for the development of leisure agriculture and rural tourism. [3] The existing land use laws and property laws have not completely addressed the land issues required for the development of leisure agriculture and rural tourism. Therefore, there is a need to adopt an open attitude in the legal system, providing a better investment environment and policy support for foreign investors to stimulate their enthusiasm for investing in these industries. Simultaneously, reforms in the land system, rational allocation of land use rights, and streamlining land transfer procedures are necessary to promote the development of

leisure agriculture and rural tourism industries. Additionally, environmental protection is a crucial aspect of the development of leisure agriculture and rural tourism industries.

We cannot sacrifice the natural environment for economic benefits. The development of leisure agriculture and rural tourism relies on the ecological environment, characterized by natural and cultural landscapes. Therefore, it is essential to establish a comprehensive environmental protection and restoration system, strictly enforce environmental protection responsibility systems. In legislation, we should adhere to green principles, formulate specific provisions for protecting the ecological environment, ensuring the sustainable development of leisure agriculture and rural tourism industries, and achieving harmonious coexistence between humans and nature. [4]

2.3. Insufficient Development of Rural Cultural Resources

As widely known, leisure agriculture and rural tourism industries play a crucial role not only in revitalizing the rural economy and spreading rural civilization but also provide people with valuable opportunities to personally experience and engage with traditional culture and rural customs. In this regard, local cultural elements of ethnic minorities are particularly important as they enrich the content of leisure agriculture and rural tourism, making them more attractive and unique.

However, in practice, some rural areas inhabited by ethnic minorities may not have conducted in-depth investigations and studies, resulting in a lack of integration between the development of leisure agriculture and rural tourism and the rich cultural resources of ethnic minority areas. This has led to the ineffective exploration and utilization of valuable resources such as intangible cultural heritage, folk customs, and rural culture owned by ethnic minorities, indicating a deficiency in expressing local characteristics. Therefore, in optimizing the legal framework for the development of leisure agriculture and rural tourism, greater attention should be given to the preservation and integration of minority cultures.

Firstly, strengthening investigations and research is crucial. In-depth exploration of ethnic minority areas to understand and document their distinctive traditional cultures and folk customs provides a strong foundation for protection and inheritance. Furthermore, increasing investment and support are necessary. Providing funds and policy support for leisure agriculture and rural tourism in ethnic minority areas will facilitate the excavation and development of their folk cultural resources. Additionally, enhancing inheritance and cultivation is essential. Promoting the preservation and promotion of minority cultures through cultural exchanges, traditional skill inheritance, ethnic minority folk festivals, and other activities is crucial. Finally, a sound legal system is required. Strengthening the protection of folk cultural resources in ethnic minority areas in the legal framework for the development of leisure agriculture and rural tourism, formulating specific regulations and policies, and promoting the inheritance of their traditional culture.

3. Legal System Imperfections in the Development of Leisure Agriculture and Rural Tourism in China

Leisure agriculture and rural tourism demonstrate significant importance in daily life and continuous progress, emerging as a new form of agriculture in the modernization process that integrates farming, tourism, and regional culture. Utilizing abundant resources such as agricultural resources, regional environment, and cultural heritage, this industry continues to grow, becoming a new driving force for rural economic growth. However, it is imperative to recognize that the current legal regulations do not sufficiently support the development of leisure farms and rural tourism in China's rural areas, leading to a series of legal challenges that urgently require attention in the face of the current legal issues encountered by leisure agriculture and rural tourism in China.

3.1. Administrative Law Supervision Issues in Leisure Agriculture and Rural Tourism

The rise and potential expansion of farmhouse inns and rural tourism are gradually becoming apparent. This sector is not only related to the protection of individual rights but also involves the maintenance of public well-being. In China, the Ministry of Agriculture and Rural Affairs is responsible for guiding and promoting the progressive development of rural leisure activities and countryside travel. However, the current progress in China has not reached a standardized level of management, lacking robust administrative regulations and supervision means. Existing laws and regulations do not clearly define the licensing process for activities such as agricultural experiences and rural tourism, lacking rigorous approval procedures. Moreover, there are no established steps and accountability mechanisms for inspecting the compliance of practitioners and no specific penalty provisions for unauthorized enforcement actions.

Administrative enforcement plays a crucial role in promoting the development of leisure agriculture and rural tourism industries, representing the government's ability to execute various administrative tasks such as supervision, license issuance, and implementation of punitive measures. At the same time, it serves as an effective tool to ensure the healthy and orderly growth of leisure agriculture and rural tourism. However, without appropriate regulatory mechanisms to ensure the proper fulfillment of administrative functions in this field, the interests of individuals or organizations may be adversely affected, disrupting the balance among all stakeholders.

In practice, it is essential to strengthen administrative supervision. Specifically, clarifying administrative responsibilities, establishing standards and procedures, and enhancing the supervision and management of operators in the leisure agriculture and rural tourism industries are necessary. This ensures the legitimacy and regularity of their business activities. Additionally, there should be increased penalties for illegal administrative actions, establishing a sound accountability mechanism to ensure the healthy development of the leisure agriculture and rural tourism industry and the legitimate rights of all stakeholders. Only by strengthening administrative supervision can we safeguard the public interest of the leisure agriculture and rural tourism industry, achieve its sustainable development, and promote the goal of rural economic revitalization.

3.2. Land Issues in Leisure Agriculture and Rural Tourism

Land is the foundation for the existence and development of leisure agriculture and rural tourism. The status of land ownership and land use rights is closely related to land circulation. If land circulation is not smooth, it will inevitably restrict the supply and demand of land for leisure agriculture and rural tourism, limiting the expansion of industry scale and business models. Currently, there are two perspectives on the issue of land ownership. One viewpoint is the "three rights separation" theory, including collective land ownership, land contract rights, and land management rights. According to the revised "Rural Land Contract Law of the People's Republic of China" in December 2018, Article 9 clearly states, "The contracted land can retain the land contract right, and the land management right of the transferred contracted land can be operated by others." According to this perspective, the structure of land ownership includes collective land ownership, land contract rights held by contracting farmers, and land management rights that can be operated by others after legal circulation. [5] Another viewpoint is the "two rights separation" theory, which includes collective land ownership and land contract and operation rights. According to current laws, collective land ownership belongs to collective economic organizations, and farmers obtain land contract and operation rights. When farmers transfer their land, they can transfer their land contract and operation rights to others for operation. This perspective believes that the contracted land does not have independent land contract rights, and the land contract and operation rights are derivative concepts that do not constitute independent ownership.

To address the current uncertainty and confusion regarding land ownership, it is necessary to expedite the updating and improvement of laws. It is essential to consider clearly defining the structure of land ownership, establishing and regulating collective land ownership, land contract rights, and land management rights as independent concepts. Simultaneously, the legal status of land circulation needs to be clearly determined, specifying whether land circulation is a real right or a creditor's right. This will provide a more explicit and stable guarantee of land property rights for the development of leisure agriculture and rural tourism, promoting the expansion of industry scale and business models.

3.3. Unnamed Contract Issues in Leisure Agriculture and Rural Tourism

Leisure agriculture and rural tourism involve a range of unnamed contracts, occurring within the interactions between rural vacation areas and urban residents. Due to the diverse and often informally established nature of such contracts, they may encompass various elements beyond simple food supply or travel arrangements. For instance, "homestays" can be seen as service packages led by farmers and accepted by customers, offering not only food and accommodation but also incorporating various experiential activities. Despite their widespread application in social practices, the detailed handling of such services lacks answers within existing regulatory frameworks. The absence of specific terms guiding the resolution of potential risks necessitates the formulation of laws and regulations tailored to this context. This is crucial to ensure fair resolution of disputes and to effectively guide the industry's development while safeguarding the interests of all parties.

3.4. Liability Issues in Leisure Agriculture and Rural Tourism

As the pursuit of quality living and shifts in consumer attitudes continue, leisure agriculture and rural tourism gain increasing attention. However, this industry faces inevitable challenges, with the infringement of tourists' rights becoming more severe. [6] In practical operations, some tour operators not only disregard the basic rights of tourists but also intentionally neglect safety and legality to pursue economic gains. For example, a tourist participating in a leisure agriculture project may experience equipment failure during an activity, resulting in injury. Despite multiple attempts at seeking justice, the lack of relevant legal provisions leaves the tourist unprotected under contract law principles. While tourists should receive fair compensation, the absence of legal protection seriously compromises their rights.

Hence, the urgent need for specific legislation on liability is evident to protect tourists' rights comprehensively. These provisions should cover various acts of infringement, including those leading to personal and property losses due to operator negligence. Only with explicit legal protection can tourists receive the deserved safeguards, enabling the healthy and sustainable development of leisure agriculture and rural tourism.

4. Improvement Paths for Leisure Agriculture and Rural Tourism in China's Current Legal System

4.1 Inclusion of Administrative Approval Mechanisms in the Administrative Legal System

Administrative bodies must leverage their authority to propel the development of leisure agriculture and rural tourism, ensuring compliance with regulations to facilitate the industries' growth. Given the burgeoning development of novel farm economies, there is a potential for illicit activities. Strengthening administrative review mechanisms for leisure agriculture and rural tourism is advocated. The rationale behind implementing such a review system lies in the industries'

involvement in numerous potential high-risk areas. By establishing clear audit processes, and stringent standards, and optimizing registration procedures, vital support can be provided for the safe operation of these industries. Moreover, government agencies have an obligation to regularly assess farmers' business practices. If issues are identified, appropriate measures should be taken to penalize them. Conversely, failure to fulfill responsibilities should result in corresponding legal consequences. This is a pivotal step in maintaining the healthy growth of leisure agriculture and rural tourism. In executing this task, administrative bodies must flexibly apply the proportionality principle, considering the public interest, individual rights, and organizational interests to achieve harmonious coexistence in all aspects.

4.2. Clarification of Land Transfer in the Property Rights Legal System

China's economic development heavily relies on the utilization of land resources, including the development of leisure agriculture and rural tourism. These industries, rooted in the primary sector and integrated with secondary and tertiary sectors, require the optimal exploration of land potential. The key to achieving this lies in the efficient allocation of land resources, necessitating a well-defined and rational transfer of various land rights.

The latest revision of the "Land Administration Law of the People's Republic of China" took effect on January 1, 2020, introducing new provisions under Article 63 allowing direct entry of rural collective construction land into the market. This provision expands opportunities for rural land to participate in market operations, departing from past practices of compulsory land acquisition for state ownership. To adapt to and promote the development of leisure agriculture and rural tourism, corresponding adjustments to relevant legal provisions are essential.

Firstly, amending the "Implementation Regulations of the Land Administration Law of the People's Republic of China" can introduce detailed clauses regarding the marketization of rural land. For instance, we can stipulate: "To promote the development of leisure agriculture and rural tourism, landowners may transfer land to businesses or individuals through sale or lease. They are required to sign a written agreement specifying the location, size, commencement date, validity period, purpose, planning requirements, responsibilities, and rights." This provision, tailored to China's rural economic development needs, will provide broader development space, enabling the efficient utilization of rural land. Secondly, ownership of land should be clearly defined as collective ownership, land leasing rights, and land operating rights. Adhering to the principle of "separation of three rights," we can facilitate farmland transactions, allowing owners to transfer land to others through sale or lease, maximizing land utilization. This approach promotes the integration of land, capital, and technology into the development of leisure agriculture and rural tourism, offering investment opportunities for external investors and ensuring the efficient operation and sustainable development of rural land.[7]

4.3 Inclusion of Leisure Agriculture and Rural Tourism Service Contract Content in Contract Legal System

The modern leisure agriculture and rural tourism industry are gradually transitioning to comprehensive services, particularly wellness tourism, encompassing vacationing, health preservation, entertainment, and accommodation. To address this, adding a chapter on named contracts, specifically leisure agriculture and rural tourism service contracts, in the "Contract Code" of the Civil Code is recommended. This inclusion would explicitly classify this contract as a named contract, clarifying the special rights and obligations of both parties. Operators would be obligated to fulfill safety warning duties, pre-compensation obligations, and service commitment obligations, fostering compliance with the principle of good faith. In the "Leisure Agriculture and Rural Tourism Service Agreement" section, provisions protecting rural landscapes and distinctive resources,

especially in areas with unique cultural heritage and natural environments of ethnic minorities, need to be added. Utilizing advisory rules and prohibitions would prioritize protecting these special landscapes and resources. Advisory rules would encourage operators and investors to prioritize maintaining local customs, rural characteristics, and special landscapes, promoting the development of leisure agriculture and rural tourism. Prohibitions would deem any formatted contracts detrimental to preserving rural landscapes and distinctive resources as invalid, strictly prohibiting contracts or clauses that undermine this purpose. For intentional or negligent acts causing harm to rural landscapes and distinctive resources, relevant authorities should take appropriate measures according to legal procedures.

4.4 Addition of Liability Provisions for Leisure Agriculture and Rural Tourism in the Tort Liability Legal System

It is recommended to add a dedicated chapter on "Liability for Leisure Agriculture and Rural Tourism" in the tort liability section of the Civil Code, with a focus on protecting victims and embodying a legislative philosophy of human care. This chapter can adopt the approach of "general clauses with specific provisions" to encompass special tortious acts in leisure agriculture and rural tourism.

Here, it is crucial to clearly stipulate that during leisure agriculture and rural tourism activities, if a tourist's individual or property is damaged due to independent actions, and if investors and operators engage in specific tortious acts causing ecological environmental damage when conducting and managing leisure agriculture and rural tourism businesses. Specialized provisions should categorize these specific tortious acts. Specifically, the categorization can include two aspects: firstly, clarifying tortious acts resulting from operators providing special service projects or special agricultural facilities leading to injury or property loss for tourists; secondly, specifying potential damage to local customs, rural culture, and intangible cultural heritage during customers' enjoyment of rural vacation and travel experiences. In these cases, the motivation (intentional or negligent) behind the actions should determine the corresponding legal responsibilities.

Adding this section will not only help protect the legitimate rights of tourists but also ensure the healthy development of the leisure agriculture and rural tourism industry. Such legislative measures will contribute to guaranteeing the industry's healthy development, and providing better legal protection and standards.

5. Conclusion

In order to expedite the strategic development of leisure agriculture and rural tourism, it is imperative to establish a robust legal framework and institutional mechanisms. This entails not only formulating and refining relevant laws and regulations in the realms of administrative and civil law but also enhancing complementary policies, intensifying law enforcement and regulatory efforts, strengthening industry standards, and expeditiously addressing related disputes and infringements. Given the specificity and complexity of the leisure agriculture and rural tourism industry, an approach combining "general provisions with specific regulations" can be employed. This approach ensures the universality of legal applicability while tailoring specific provisions to different situations and issues, thus better safeguarding the legitimate rights and interests of all parties involved. In summary, leisure agriculture and rural tourism constitute an integral part of China's development strategy, and fostering their healthy development requires concerted efforts from the entire society. While continuously increasing support and nurturing for the leisure agriculture and rural tourism industry, the establishment and improvement of relevant legal and institutional systems will undoubtedly serve as a solid guarantee for the industry's healthy and orderly development.

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