Application of LADM for Rural Homestead Administration in China

Zhongguo Xu, Yuefei Zhuo, Guan Li,
Cifang Wu, Yuzhe Wu
(Zhejiang University, China)

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1. Introduction

1.1 What is rural homestead in China?

Rural homestead in China is generally regarded as residential land occupied freely and continually by rural householders with membership of rural collective economic organization (rural collective).
1. Introduction

1.2 What are main characteristics of current rural homestead policy?

The bipartite entitlement system (BES) is adopted in the current rural homestead administration, which is a mixed product from the planned to the marketed economy, and from group to individual tenure system: (1) Collective ownership; (2) Household occupation; (3) Free use; (4) One homestead; (5) Constrained transferability; (6) Strict regulation.

BES and strict regulation result in insufficient use of rural homestead and financial loss of rural householders under the background of rapid urbanization and industrialization in China because of constrained transferability. The tripartite entitlement system (TES) and spatial planning are created to address such problems.
1. Introduction

1.3 What is the research problems of this study?

An urgent demand for institutional instruments emerges to improve tenure security and transaction convenience of rural homestead in China. These instruments aim to facilitate implementing the tripartite entitlement system and spatial planning system for social strategies such as rural revitalization. This study aims to fill this gap.

The research problems encompass: (1) how to describe “man-right-land” relationship of rural homestead structurally; (2) how to model rural homestead administration in China based on LADM, an international technical specification.
2. Institutional change from 1949 to 2018

Overview
Legal system: civil law (German)
Aspect: static
Registration: title
2. Institutional change from 1949 to 2018

2.1 What are the major characteristics of the entire historical process?


The first and second period was in the era of planned economy. The Soviet Union’s socialist system was taken as the direction and goal of institutional reform. The institutional change during this era is mainly the imposed change.

The third and fourth period was in the era of marketed economy. The land reform took the land use system of Hong Kong as a primary reference, aiming to improve efficiency of land use and focused on the separation of land ownership and land use right. The institutional change during this era is mainly the induced change.
## 2.2 What are the characteristics of each historical period?

<table>
<thead>
<tr>
<th>Period</th>
<th>Milestone Documents</th>
<th>Characteristics</th>
</tr>
</thead>
</table>
### 2.3 What are the features of property structure?

<table>
<thead>
<tr>
<th>Classification</th>
<th>Man</th>
<th>Right type</th>
<th>Right power</th>
<th>Right function</th>
<th>Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private right</td>
<td>Rural Collective</td>
<td>Ownership</td>
<td>Complete right, to exclude, use, benefit from, and dispose of the land</td>
<td>Public land interests</td>
<td>Parcel</td>
</tr>
<tr>
<td></td>
<td>Householder with the membership</td>
<td>Qualification right</td>
<td>To benefit from, transfer within the collective, and dispose of land</td>
<td>Social security</td>
<td>Parcel</td>
</tr>
<tr>
<td></td>
<td>Natural or legal person</td>
<td>Use right</td>
<td>To use, benefit from, transfer, and dispose of land freely</td>
<td>Economic utility</td>
<td>Parcel</td>
</tr>
<tr>
<td>Public right</td>
<td>Natural or legal person</td>
<td>Village and Town Planning</td>
<td>To obey the regulation rule Of planning</td>
<td>Housing building control</td>
<td>Zone</td>
</tr>
<tr>
<td></td>
<td>Natural or legal person</td>
<td>Comprehensive land use planning</td>
<td>To obey the regulation rule Of planning</td>
<td>Farmland protection</td>
<td>Zone</td>
</tr>
<tr>
<td></td>
<td>Natural or legal person</td>
<td>Spatial planning</td>
<td>To obey the regulation rule Of planning</td>
<td>Comprehensive public interests</td>
<td>Zone</td>
</tr>
</tbody>
</table>
3. Proposal for LADM Based Model of Rural Homestead
4. Conclusions

1. **Current private right structure:** ownership attributed to the local collective forms politic foundation for public land interests. Qualification right equips and protects local residents with social securities. Use right offers management freedom to promote new rural industries development.

2. **Current public right structure:** village and town planning serves as regulation instruments for building and public facilities. Comprehensive land use planning serves as regulation instruments for land development and protection. Spatial planning serves as regulations instruments as comprehensive public land interests such as natural resources protection.

3. **LADM based application model:** ownership, qualification right, and use right are extended as class in rights module. Similarly, land use regulations are extended as classes in restrictions module as well.

   In conclusion, this study contributes to better understanding the process of legal transition from group to individual tenure system in transitional economy.
Thanks for your attention!