Application of LADM for Rural Homestead Administration in China

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Content

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
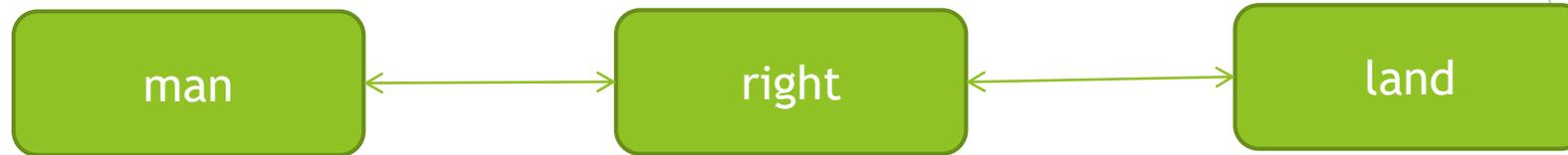
Overview
Legal system: civil law(German)
Aspect: static
Registration: title

2. Institutional change from 1949 to 2018

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

In general, the China policy of rural homestead is roughly divided into four periods: 1949-1961, 1962-1981, 1982-1997 and 1998-2018.

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?

Period	Milestone Documents	Characteristics
1949-1961	(1)Land reform law (1950), (2) Constitution (1954)	(1) Private ownership , (2) Free transaction, (3) Loose regulation (in vain) .
1962-1981	(1)Regulations of Rural People's Communes (1962),(2)Notices on Some Supplementary Provisions Concerning the Issue of Rural Homesteads for Members (1962)	(1) Collective ownership, (2) Truncated land use right(transfer within the collective),(3) Strict regulation (Hierarchical quota system).
1982-1997	(1) Regulations on Village and Town House Building Land Management (1982), (2)Land Administration Law (1986), (3)Constitution(1988), (4)Implementation Regulations of Land Administration Law (1991)	(1) Collective ownership, (2) Relatively complete use right(transfer out of the collective. (3) Loose regulation (Hierarchical quota system).
1998-2018	(1) Land Administration Law(1998), (2) Implementation Regulations of Land Administration Law (2001)	(1) Collective ownership. (2) Relatively incomplete use right(transfer within the collective). (3) Strict regulation (Land use control system).

2.3 What are the features of property structure?

Classifi cation	Man	Right			Land
		Right type	Right power	Right function	
Private right	Rural Collective	Ownership	Complete right, to exclude, use, benefit from, and dispose of the land	Public land interests	Parcel
	Householder with the membership	Qualification right	To benefit from, transfer within the collective, and dispose of land	Social security	Parcel
	Natural or legal person	Use right	To use, benefit from, transfer, and dispose of land freely	Economic utility	Parcel
Public right	Natural or legal person	Village and Town Planning	To obey the regulation rule Of planning	Housing building control	Zone
	Natural or legal person	Comprehensive land use planning	To obey the regulation rule Of planning	Farmland protection	Zone
	Natural or legal person	Spatial planning	To obey the regulation rule Of planning	Comprehensive public interests	Zone

3. Proposal for LADM Based Model of Rural Homestead
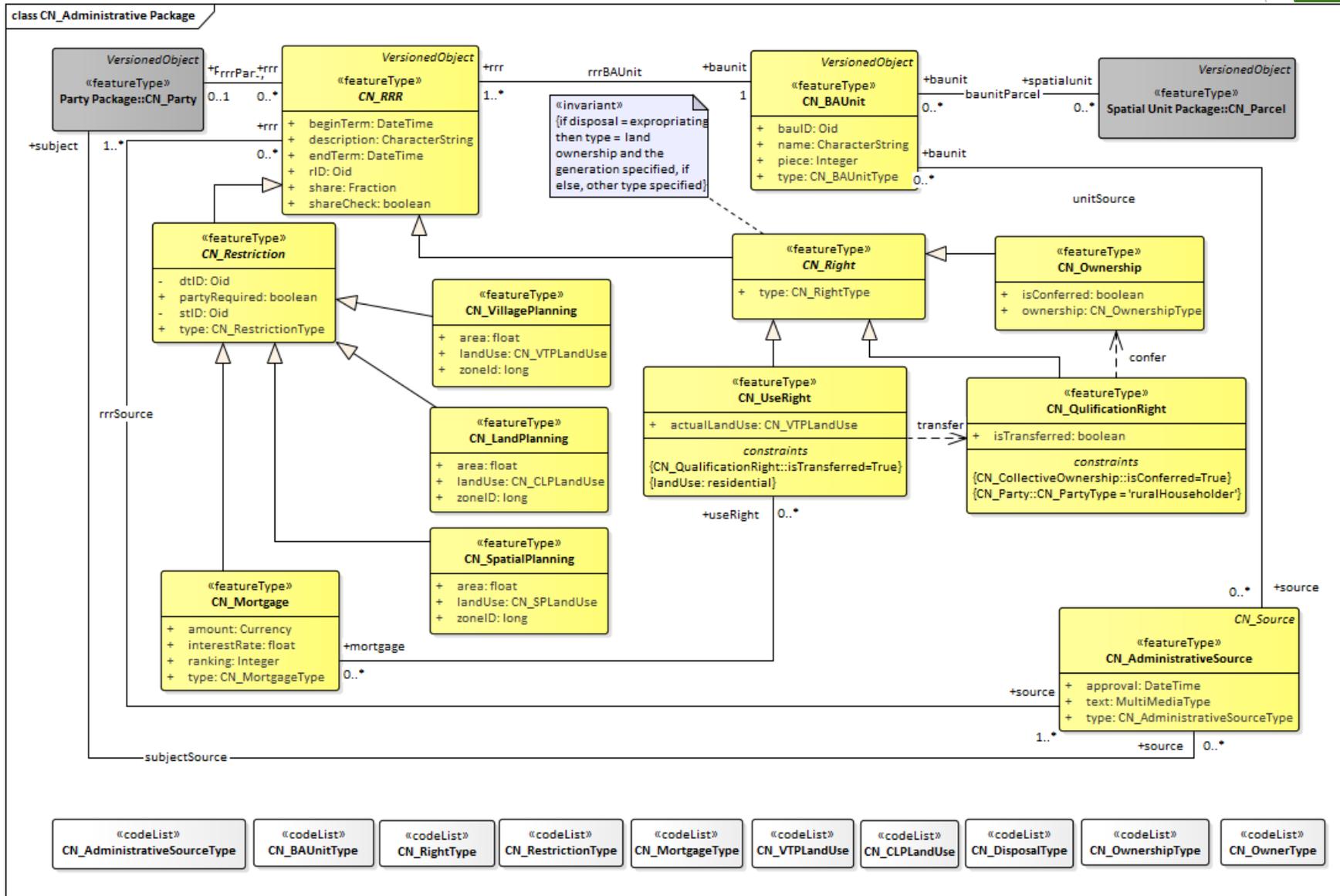
4. Conclusions

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!