

# **The Organizational Evolution of Land Administration in China since Its Opening-up in 1978: Social-Economic Rationale**

**Rosy LIAO (or Rong LIAO), P. R. China**

**Key words:** History, Organization, Land Administration, China

## **SUMMARY**

The paper reviews organizational evolution of land administration in China since the opening-up policy was adopted in 1978, which is the year representing the beginning of the latest round of drastic social and economic development in China. In general, there are four landmark restructurings in the setting of land administration in China since the first uniform land administration authority was founded in the year 1986. It is due to such quick social-economic development featured by urbanization and industrialization, that land administration has been strengthened gradually with the administrative status promotion and the organizational expansion. Moreover, the paper is focused on analyzing the behind driving forces which lead to these changes from the social and economic views. The conclusion shows that the appropriate setting of land administration should help improve social and economic development, secure land tenure in the society, guide proper and rational land uses, provide a fair, justice and transparent land market, and most importantly ensure social, economic and ecological sustainability in the future.

# The Organizational Evolution of Land Administration in China since Its Opening-up in 1978: Social-Economic Rationale

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## 1. Background

China's total area is 960 million hectares, among which the cultivated land, forest land, pasture, land for construction sites, waters and unexploited land account respectively for 13.8%, 20.7%, 27.55%, 2.95%, 3.8% and 31.3% to the total, in accordance with an official statistical survey. Moreover, China is a hilly country with mountainous regions and hilly areas making up two-thirds of its territory, and it is also a populous country characterized by a shortage of arable land. The per capita acreage equals about 0.9 hectare while the per capita arable land comprises about 0.11 hectare, which equals only one-third of the world's average. In recent years cultivated land has been disappearing at a rate of several hundreds of thousands of hectares each year. The conflict between agricultural demand for land and that of urbanization and industrialization is becoming more and more significant. Excessive cultivation of grasslands, over-grazing, utilization of land by village and township enterprises, soil pollution and erosion and rapid urbanization has caused serious damage to and deterioration of land resources.

The per capita usable land resources of China are very low and will continue to decrease in quantity and quality. Due to increasing population, industrialization, and urbanization, the demand for land resources has increased. A shortage in land resources has become a major limitation to the sustainable economic and social development of China. Corresponding to the five-level government in China, namely, central, provincial, municipal, county and township level, land administration is set Ministry of Land and Resources at central, department of land and Resources at provincial, municipal, county respectively, and land office at township level. Chinese government has realized that an efficient and powerful management and legal system for land resources is vital and of great importance for not only the present but also the future of China.

## 2. Organizational Evolution of Land Administration

China's land administration has experienced four major changes since the 1980s. Since China adopted its reform and opening-up policy in 1978, land administration and its related laws, regulations and policies have made profound changes along with the economic transfer from planned economy to market economy. The first "Land Administration Law" in the history of contemporary China was issued in 1986. Since then, the legal framework for land administration has been improved gradually, shaping land administrative structure accommodating to China's national conditions. According to the "Land Management Law", China practices the public ownership of land, namely, the land belongs to the whole people or rural collectives. Land use control system based on overall land use planning is adopted,

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setting a series of regulations strictly controlling agricultural land converted into built-up land, controlling the total amount of built-up land and implementing stringent farmland protection. After separating the land use rights from public land ownership, the land market based on the selling and buying land use rights within certain years has been set up and this market-oriented system has greatly contributed to more efficient and effective use of land.

Accordingly, China's land administrative setting has constantly adjusted, especially from small and scattered authority to high-level and uniform one.

## **2.1 The first change: the establishment of the uniform land administration along with promulgation of the Land Administration Law in 1986**

Before the reform and opening up in 1978, China's urban state-owned land implemented the system that land was allocated only by administrative way and land was used free of charge without any land use term, moreover, land use rights could not be transferred between land users. In terms of land administrative structure, the administration power of land was dispersed in various departments which had the function with different land uses at all levels of governments. For example, urban land was managed by the construction authority, while rural land was managed by the agriculture authority, railway land by Ministry of Railways, land used for roads was managed by Ministry of Transportation, forestry land by the forestry authority, water conservancy land by the water authority, and the state-owned agricultural land and unused land were both managed by Ministry of land Reclamation. This scattered land administration lasted until the year of 1982.

Starting from August 1982 until June 1986, land administration power was shifted into two major authorities in charge of urban and rural areas respectively, namely, rural land was managed by Land Bureau under Ministry of Agriculture and Fisheries and urban land was managed by Urban-Rural Housing Bureau under Ministry of Urban and Rural Construction and Environmental Protection. This change was partial restored land administration function in China.

On March 21, 1986 the CPC (Communist Party of China) Central Committee and the State Council jointly issued the Circular titled 'Strengthening Land Administration to Stop Unlawful Appropriation of Farmland'. In this policy document, it is for the first time that Chinese central government decided to establish State Land Administration as a state agency directly under the State Council to reinforce the national land management. This Circular also stated that other functional authorities such as forestry, construction, and environment etc. should conduct their own plans in terms of land use and protection but under the premise of State Land Administration which meant all changes of land uses must report to the State Land Administration for review and approval. On June 25 of same year, Land Administration Law was endorsed during the Sixteenth Meeting of the Sixth National People's Congress, presenting that cherishing and rational utilization of every inch of land and protecting cultivated land would be a long-term fundamental strategy of China. Soon after that, it is on August 1<sup>st</sup> that State Land Administration was established together with Land Administration Law enacted officially, ending a long-standing situation of no legal basis for land management in China.

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In April 1988, the first Plenary Meeting of the Seventh National People's Congress adopted the amendment of the Constitution, clearly stating that 'land use rights can be transferred in accordance with the provisions of the law'. In the same year on December 29<sup>th</sup>, the fifth meeting of the Standing Committee of the Seventh National People's Congress approved the amending of Land Administration Law. The revised "Land Management Law" clearly provided that 'state-owned land and collective -owned land use rights can be transferred according to law' and 'a new paid-system of using state-owned land is to be implemented according to the law'. The amendments of both Constitution and Land Management Law clearly swept the legal obstacles for further land system reform, enabling land as a factor of production into the market for trading purpose and creating a right path of land management under the rule of law.

As one of China's central government agencies, the newly established State Land Administration was directly under the State Council in charge of uniform management of the country's land. The major missions included: to implement national laws, regulations and policies on land; to conduct national land survey, registration and land statistics; to organize all level of governments to develop overall land use plans; to manage land appropriation and allocation and check the cases of land appropriation and allocation which need approval by the State Council; to conduct researches to solve major problems in land management; to inspect, supervise and coordinate land uses at local level governments and other Ministries; to resolve land disputes together with relevant departments, and to investigate and solve illegal land uses.

There were seven functional departments in State Land Administration with total of 170 people, which included General Office; Department of Planning and Finance, Department of Policies and Regulations and its Enforcement Supervision, Department of Cadastral Management, Department of Land Use Planning, Department of Built-up Land Management, and Department of Science & Technology and Publicity. After the founding of State Land Administration, local land administration at provincial, city, county, and township level have also been established.

## **2.2 The Second change: the establishment of Ministry of Land and Resources, aiming to strengthen land use control in China**

During the late 1980s to early 1990s, there were huge economic activities under the transition from planned economy to market economy. Also, urbanization process seemed being accelerated with urban constructions at large scale and the new development zones and industrial parks everywhere, which led to sharp decrease of agricultural land. Particularly after the year of 1987, the heat wave of setting up development and industrial zones began to spread across the country and peaked in 1992 - the year 2400 acres of arable land was taken up at various levels. This caused a new regulation titled Protection of Prime Farmland released in 1994 by the State Council in order to further legally strengthen the protection of arable land. This regulation introduced the delineation of prime farmland zone in China

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regulating the prime farmland zone is under strict protection. Once the prime farmland protection zone is designated, no unit or individual shall change or occupy. On April 15<sup>th</sup>, 1997 the CPC (Communist Party of China) Central Committee and the State Council issued the 'Circular on Further Strengthening Land Management to Protect Farmland', which required the suspension of approval of any development projects which would occupy agricultural land from the date of its issue. For any important project which really needed to occupy farmland, it should report to the State Council for approval. This circular also required a comprehensive amendment of 'Land Administration Law'. A year later, the CPC Central Committee and State Council once again issued another circular asking for continuously freezing on the approval of those projects from 15 April 1998 until 'Land Administration Law' was promulgated after revision.

Finally, on August 29, 1998 the fourth meeting of the Standing Committee of the Ninth National People's Congress endorsed the revised 'Land Administration Law'. At the same year, there was a large scale government reshuffle. Ministry of Land and Resources was set up by combing the former Ministry of Geology and Mineral Resources and the former State Land Administration. Moreover, the State Oceanic Administration and State Bureau of Surveying and Mapping became the agencies directly under Ministry of Land and Resources.

The main function of Ministry of Land and Resources is to conduct planning, management, protection and rational utilization of land, mineral and marine resources. Among them, the mission of strengthening nature resources management especially farmland protection and land management under the premise of eco-environment conservation is prioritized in order to safeguard long-term needs of the people and the country's modernization. In terms of land administrative function, the duty is focused on land use control, which highlights the protection of farmland. It is emphasized that agricultural land to be turned into built-up land must follow the overall land use plan and be approved only by central or provincial government. Only with the approval, could the municipal and county governments supply the land to all kinds of projects, taking up original agricultural land for construction. In terms of land law enforcement supervision, the Ministry is trying to establish a modern monitoring system covering all fields of land management including land use planning, agricultural land conversion, land appropriation, disposal of land assets, land use rights transactions etc. Moreover, to investigate and punish illegal land use cases is also to be enhanced. Ministry of Land and Resources is also empowered to lead the provincial department of land and resources to conduct their missions and the nomination of the head of the department should be approved by the Ministry. --

Around 300 people are working in the Ministry and there are eight functional departments related to land administration, including General Office; Department of Finance, Department of Policy and Law Enforcement, Department of Science & Technology and International Cooperation, Department of Planning, Department of Cadastral Management, Department of Land Use Management, and Department of Farmland Protection.

### **2.3 The third change: the consolidation of land administration at provincial level, enabling provincial department of land and resources to execute missions down to municipal, county and township level vertically**

In 2003, the Chinese economy appeared ‘overheating’. Due to the wave of overheating, the local governments were excited to enlarge the total volume of the local economy by hugely expanding the urban area and became frequently in violation of laws and policies regarding land administration, such as illegal appropriation of farmland and low-cost transfer of state-owned land. To cool down this round of expansion of built-up land and to prevent from trapping into a vicious circle, it called for a new mechanism of properly sharing the multiple interests between central and local government, between government, land users and landless farmers. The State Council conducted a series of actions with the needs of economic macro-control and started to rectify land market order. Meanwhile, Ministry of Land and Resources was empowered with a new function of involving in macro-control of the economy by adjusting land policies, which is similar as monetary policy, fiscal policy and industrial policy in macro-control of the economy. In countering local government violation of the land laws and regulations exposed during the overheating of the economy, the State Council made a decision on deepening land reform and strengthening land management, dividing and clarifying the powers and responsibilities of central and local government in terms of land administration, namely to regulate the total amount of the newly-added built-up land is the responsibility of central government and to make efficient and effective use of existing built-up land is the responsibility of locals. All level of governments has their own obligations and liabilities of protection and rational use of land while the provincial level government should bear the primary responsibility. This decision eventually led to a big adjustment of the human resources management of provincial and below-provincial land and resources departments, which requires the head of land administration department below provincial level should only be appointed by the higher level land administration. In April 2004, the State Council made the following decision on changing the administrative structure of land and resources authorities at municipal and county level, namely, municipal land and resources authorities should set up its subordinate branches within its built-up areas and county land and resources authorities should take over control of the township land offices.

### **2.4 The fourth change: the establishment of the State Land Inspectorate System to strengthen supervision of land use and management of local government**

Once again focusing on the issue of law violation by local government, it is in 2004 the State Council decided to establish a national land inspectorate system, aiming to strengthen supervision of land use and management performed by local governments. In 2006, the State Council approved the establishment of the state land inspectorate system, and designated one National Land Chief Inspector (performed by the Minister of Land and Resources), one Deputy Inspector 1 (performed by a vice Ministry of Land and Resources), and a full-time Deputy Inspector (vice-ministerial level). Meanwhile, there is a General Office of the Chief Inspector established within the Ministry and nine national land inspectorate bureaus are designated and located in 9 cities across China. Each of them is responsible for different provinces within a defined region. The State Council authorizes the National Land Chief

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Inspector on behalf of the State Council to inspect and supervise land use and management of provincial level governments. The nine national land inspectorate bureaus authorized by the National Land Chief Inspector are responsible for a series of exact works of land management accountable by provincial governments, including farmland protection target, law enforcement, verification of legitimacy and authenticity of land use; land approval matters, and involvement of macro-control by land policy. Moreover, those nine bureaus are also responsible for study on a variety of land issues and providing policy suggestions to the Ministry. The bureaus are mainly in charge of supervising and inspecting land use and management of local governments and proposing improvement or rectification notices and comments to local governments but not aimed to change any administrative decisions made by local governments such as land approval or penalties.

### **3. The main factors driving the changes in China's land administration**

The above four major changes in China's land administration since its reform and opening up in 1978 are primarily due to China's specific national conditions, the ongoing economic growth and the administrative system reform. In the process of organizational changes, safeguarding national food security, promoting market-oriented land distribution and improving administrative efficiency of land management are the main driving forces for this evolution.

#### **3.1 The largest population in the world and scarcity of land resources urge China to prioritize national food security, which is a significant driving factor.**

Since its reform and opening up in late 1970s, China's industrialization and urbanization have entered a rapid development stage. Since 1978, the average annual growth rate of China's industry sector is more than 11%, contributing to 40% of the total GDP and economic growth. From 1978 to 2013, China's urban inhabitants increase from 170 million to 730 million people, and the urbanization rate increases from 17.9% to 53.7%, an average annual increase of 1.02%. The number of cities increases from 193 to 658 and the number of towns increases from 2173 to 20113. Meanwhile, China holds the largest population in the world but very limited usable land resources, causing prominent conflict between human and land. Therefore, to ensure the limited land to feed the large population is highlighted on the mission of land administration with emphasis on effectively protecting farmland, which requires a balance between keeping a certain amount of farmland to meet the goal of national food security and supplying a certain amount of built-up land to support economic growth and urbanization. Generally, the central government has the ultimate responsibility for national food security while the local government is in the pursuit of economic development in the region with strong incentive of expanding built-up land. There is a certain contradiction between the two. Protection of farmland is always the most important motivation of the four changes of land administration since 1986, namely, to practice uniform land administration, to implement land use control system, to enhance the guidance of local land authority, to strengthen the supervision and inspectorate of land management performed by local governments.

### **3.2 The reform on market economy with the transition from planned economy is another significant driving factor.**

Land tenure system reform in China used to be a fundamental task to support the establishment of the socialist market economy in which land market was essential for the whole economy in the early stage of the reform and opening-up in China. Based on the amendment both the Constitution and Land Administration Law in 1988, the land use rights was separated from public ownership and allowed to be traded, laying a solid legal condition for land market in China. Land market should be a transparent, justice, fair and well regulated system with its functions well performed. The inner mechanism of land market include market-driven land recourses allocation system under national macro-control, land pricing system based on the price of land use rights, interest and profit distribution system based on clear rights definition and regulated by taxes, fees and rentals, sound legal system ensuring orderly market behavior, and the agent system promoting land market development. Since 2001, the change of land administration in China has been greatly related to improving land market to allow market as the driver to rationally allocate land resources. In May 2001, the State Council set up a new land use rights transfer system which stipulates that land use rights of commercial land should only be obtained through public bidding, auction and listing organized by local land authority in order to promote the market-oriented land distribution. In line with the mandate from the State Council, Ministry of Land and Resources, has gradually developed a series of policies to strengthen its regulatory power in land market, including the total amount of built-up land controlling policy, the centralized urban built-up land supply policy, the open trading policy of land use rights, the policy of regular updating and publishing benchmark land price, and the policy of land registration and inquiry etc., which has laid a good foundation for the State Council to mandate the mission of participating in economic macro-control to the Ministry of Land and Resources in 2003.

### **3.3 Continuously shifting and modifying the power between central and local land authorities is a significant driving factor.**

It is a general goal for Chinese government to establish a well-functioned administrative system with Chinese characteristics by 2020, calling for an equitable power division between central and local governments, which is also a basic work of recent administrative reform in China. Accordingly, the organizational evolution of land administration is closely related to this reform. The revised " Land Management Law" in 1998 has made a clear definition of power division between central and local land authorities in accordance with the constitutional principle on rational division of power between central and local government and the requirement of developing market economy and land use control system. It is stipulated that the power, which is related to overall decision-making such as approval of land use plans, approval of conversion from agricultural land to built-up land and land appropriation, supervision on farmland development, and controlling the total amount of land supply, is concentrated in the central and provincial governments and the power, which is related to execution and implementation of exact land management works such as land registration, execution of land use plan and annual land use scheme, approval of the project land use on the construction-allowed areas already approved by central or provincial

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government, investigation and penalty execution of illegal land use cases, is assigned to municipal and county land authorities. This kind of power division has actively mobilized both central and local governments in land management and helped guide the intensive and economic use of land. It is also conducive to achieve the overall goal of land management for the whole country. It is at the end of 2003, the state made the decision on practicing the vertical-model of land administration below provincial level, which means the missions of land management executed by municipal, county and township level should be shifted to provincial land authority, so does the personnel management. Then, the local government at the same level has no longer had the power to lead the local land authority. This change is to consolidate land administrative power at provincial level, enabling provincial department of land and resources to execute missions down to municipal, county and township level vertically. On the other hand, it has enhanced the function of participating in the macro-control of the economy by adjusting land policies. Moreover, the National Land Inspectorate system established in 2006 has further intensified the State Council supervision on provincial land management by mandating nine national land inspectorate bureaus to execute the inspection mission, and this has formed a complete monitoring system about land administration in China.

#### 4. Summary

In general, the four major changes in China's land administration since its reform and opening up in 1978 reflect the rapid social and economic development in China. Each change is in line with the emerging social and economic challenges. Specially, as the biggest developing country in the world, China is facing a variety of land issues on the context of drastic urbanization and industrialization, which normally lead to fast changes of land uses. Without a proper land management against such quick changes, it would be a disaster for the country heading a way towards urban sprawl, ecological degradation, environmental pollution and rural declining etc. It is no doubt that an appropriate setting of land administration should help improve social and economic development, secure land tenure in the society, guide proper and rational land uses, provide a fair, justice and transparent land market, and most importantly ensure social, economic and ecological sustainability in the future.

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## **BIOGRAPHICAL NOTES**

Mrs. Rosy Liao (or Rong Liao), obtained Master Degree of Land Management in Renmin University of China and Bachelor Degree of Geo-Engineering in China Geo-Science University. She is now working for China Land Surveying and Planning Institute, the biggest and strongest technical and policy backup institute for national land authority in China. Currently, she is leading international cooperative research in the institute, enabling her to have diversified knowledge about land administration home and abroad. She used to be involved in the projects regarding land consolidation and rural development with the Netherlands, Belgium and Germany; the projects regarding cadastral management and land registration with Sweden, Australia and Germany, the projects regarding rural land policy reform in China with UNDP, the project regarding biodiversity in land consolidation and land use planning with EU and the projects regarding land use planning with Canada, the US and Lesotho.

## **CONTACTS**

Rosy LIAO (or Rong LIAO)  
China Land Surveying and Planning Institute  
Ministry of Land and Resources  
Address: No.37 Guan Yin Yuan Xiqu, Xicheng District, Beijing 100035  
City: Beijing  
COUNTRY: The People's Republic of China  
Tel. +86-10-6656-2800  
Fax + 86-10-6656-2082  
Email: [Rosyliao@outlook.com](mailto:Rosyliao@outlook.com)  
Web site: [www.clspi.org.cn](http://www.clspi.org.cn)

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