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Land Use Rights Laws in the United States, China, France, Japan, and Their Referable Values for Vietnam

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Abstract

The article provides an overview of land use rights laws in the United States, China, France, and Japan, highlighting the distinctive features of each country's legal regulations governing land use. On this basis, the paper identifies

valuable lessons and reference points for improving the formulation and implementation of Vietnam's current legal framework on land use rights.

Keywords: Law, Land Use Rights, Values, Reference

1. Introduction

Land use rights constitute an important legal institution that reflects the relationship between the State, land users, and society. They embody the nature of land ownership regimes, the degree of property rights protection, and the orientation of each nation's socioeconomic development. This article analyzes the legal frameworks governing land use rights in several representative countries namely, the United States, China, France, and Japan in order to draw referential values for Vietnam. The study employs a comparative legal method, combining theoretical analysis with a synthesis of practical experience to identify adaptable elements suited to Vietnam's socioeconomic conditions. The findings reveal that, although each country has its own historical background and legal system concerning land use rights, the laws in all four nations emphasize stability, transparency, and the transferability of land use rights, while harmonizing the interests of the State, the community, and individuals.

2. Land Use Rights Laws in the United States, China, France, and Japan

2.1 Land Use Rights Laws in the United States

The United States operates under a quintessential private ownership regime, in which land is regarded as a form of individual property endowed with extensive rights of use and disposition. Unlike many civil law jurisdictions, the United States does not have a single codified "Land Law." Instead, land-related regulations are dispersed across state statutes and federal case law, with each state retaining the authority to enact its own legislation governing land use.

Despite this diversity, a unifying principle underpins the United States land law: the landowner's right to freely possess, use, enjoy, and dispose of land, subject only to limitations established by law for public purposes such as zoning, environmental protection, and eminent domain for national or community interests¹.

Under this model of private land ownership, landholders enjoy an extensive "bundle of rights," including possession, use, transfer, lease, mortgage, and inheritance, all safeguarded by statutory and constitutional provisions. The United States legal framework embodies a federal - state duality, in which each state may legislate independently on land use matters when necessary to meet local socio-economic needs.

Land use rights in the United States are further categorized into distinct legal estates such as fee simple ownership, easements or limited-use rights, and leasehold interests each carrying specific legal implications². These property interests are stringently

¹ Nguyen Van Tuan (2022), "Ownership and Land Use Rights in the United States: Some Theoretical and Practical Issues", *Journal of State and Law*, No. 7.

² Bryan A. Garner (2019), *Black's Law Dictionary* (11th Edition), Thomson Reuters (St. Paul, Minnesota, USA).

protected under the Fifth Amendment to the United States Constitution, which stipulates that “*no person shall be deprived of property without due process of law, nor shall private property be taken for public use without just compensation*”³. Accordingly, The United States system of land use rights is nearly synonymous with ownership itself, encompassing the full capacity to transfer, mortgage, lease, and bequeath property.

Another defining feature of The United States land regime is its market-oriented character: the State generally refrains from intervening in land valuation or transaction pricing, allowing market forces to determine property values. This principle has stimulated a highly dynamic and competitive real estate market, yet it has also engendered challenges such as wealth disparity and land speculation.

Nevertheless, private land rights are not absolute. They are bounded by a dense network of public regulations notably urban planning, environmental protection, and zoning laws that aim to ensure the public interest. Zoning legislation, for instance, requires that land use conform to broader community objectives and sustainable development goals. This legal structure fosters a balance between individual autonomy and collective welfare, while maintaining a flexible and transparent land market⁴.

As a Common Law jurisdiction, the United States relies heavily on judicial precedent in resolving land use disputes. The adjudicatory process is inherently complex, reflecting the enduring tension between private property rights and the State’s regulatory authority to pursue the common good. It is not a linear or centralized mechanism, but a dynamic interplay among landowners, communities, administrative agencies, and the judiciary.

From constitutional protections of property rights to detailed zoning ordinances at the local level, the American legal system strives to craft a framework that is both predictable and adaptable, one capable of accommodating exceptional circumstances while upholding procedural fairness. The courts, rather than replacing local policymakers, serve as guardians ensuring that land-use decisions rest on sound legal foundations, comply with due process, and respect constitutional rights. As the United States continues to confront contemporary challenges of urban expansion, environmental sustainability, and housing equity, its system of land adjudication will inevitably evolve, shaping both the material landscape and the social fabric of the nation.

2.2 Land Use Rights Laws in China

China’s land tenure system is distinctive, featuring two primary forms of ownership: state ownership of urban land and collective ownership of rural land. According to the Land Administration Law of the People’s Republic of China (2019), all land in urban areas is owned by the entire people, with the State acting as the representative of ownership and exercising unified management, while agricultural and rural land is owned collectively by rural collectives⁵.

The Chinese State does not grant ownership of land to individuals or organizations but instead provides land use

rights for a fixed duration. Specifically, the maximum term is 70 years for residential land, 50 years for industrial land, and 40 years for commercial land⁶. Holders of land use rights may transfer, lease, or mortgage their rights in accordance with legal provisions, provided that the use complies with the purposes approved by the State.

A noteworthy feature of China’s land regime is the establishment of a relatively mature market for land use rights. Within the authorized term, such rights can be transferred, inherited, or mortgaged, thus ensuring the circulation and economic utility of land resources. Although the State retains the authority to expropriate land, it is required to provide compensation based on market value and resettlement assistance to affected land users⁷.

In recent years, China has undertaken significant reforms of the land use rights system, including the introduction of public auctions and leasing mechanisms to optimize land resource allocation and enhance efficiency. The government has also promoted the development of land-based financial instruments, enabling land use rights to function as collateral for capital mobilization in support of economic growth⁸. Nevertheless, persistent challenges remain, notably concerning the protection of rural landholders’ rights and the tension between rapid urbanization and fair land expropriation practices.

Structurally, China’s model of land ownership shares similarities with that of Vietnam, as both are founded on the principles of state and collective ownership. However, Chinese legislation is more advanced in recognizing land use rights as tradable property interests, effectively transforming them into a legal and economic mechanism for mobilizing land resources while maintaining the socialist ownership framework.

Given the rapid pace of urbanization and economic development, disputes over land use rights have emerged as one of the most significant sources of social unrest in China. Consequently, the judiciary’s role in adjudicating land-related disputes has become crucial for ensuring social stability and promoting sustainable national development.

2.3 Land Use Rights Laws in France

France is characterized by a predominantly private ownership regime governing land use rights, under which most land is held by individuals and private entities. Nonetheless, a portion of land remains under state ownership, reflecting a dual structure of property relations. The principles of private land ownership and land use rights are clearly enshrined in both the French Civil Code (Code civil) and the Urban Planning Code (Code de l’urbanisme)⁹. The Civil Code defines ownership as encompassing the rights to use, enjoy the fruits (fructus), and dispose of property rights that are absolutely protected, except in cases

³ United States Constitution (1791), The Constitution of the United States of America - Fifth Amendment.

⁴ Daniel R. Mandelker (2020), Land Use Law, (7th ed.), LexisNexis.

⁵ National People’s Congress of China (2018), Constitution of the People’s Republic of China.

⁶ Ministry of Natural Resources of China (2019), Land Administration Law.

⁷ Vu Hoang Nam (2020), “Land Law Reform in China: Lessons for Vietnam.” *Journal of State and Law*, No. 11.

⁸ Hoang Ngoc Giao (2021), “China’s Land Law Reform Experience and Lessons for Vietnam.” *Journal of State and Law*, No. 7.

⁹ Code de l’urbanisme, République Française, 2023.

of expropriation for public purposes¹⁰. Landowners are thus entitled to possess, use, and transfer land in accordance with the law, provided they comply with planning, zoning, and environmental protection regulations.

A distinctive hallmark of French property law lies in its development of fragmented or divided real property rights, which allow the separation of ownership and use. Instruments such as *usufruct* (the right to use and benefit from property owned by another) and *emphyteutic leases* (long-term land leases extending up to 99 years, illustrate the system's flexibility). This legal construct enables dynamic and efficient utilization of land resources, particularly for long-term socio-economic development projects¹¹.

Land administration in France is further governed through a comprehensive urban planning system and a strict building permit regime. The building permit (*permis de construire*) functions as a core regulatory mechanism, ensuring that land development conforms to broader planning objectives and sustainable land-use principles¹². Furthermore, French law establishes a transparent and equitable framework for land expropriation in the public interest, which requires fair compensation and due process¹³. In this way, the French legal system endeavors to balance the protection of private property rights with public welfare considerations and environmental sustainability.

Disputes concerning land use among private parties fall within the jurisdiction of the judicial courts, rather than administrative tribunals. The primary legal foundation for adjudicating such disputes derives from the *Civil Code*, particularly provisions relating to ownership, rights of way (*servitudes*), and boundary demarcation. Common cases include boundary disputes, conflicts over access rights, and issues of construction encroachment. The French judiciary thus plays a pivotal role in safeguarding property rights while maintaining coherence between individual ownership and collective spatial planning.

2.4 Land Use Rights Laws in Japan

Japan recognizes private ownership of land but maintains a high degree of state regulation and control, particularly through a comprehensive system of urban planning, environmental protection, and land use regulation designed to prevent speculation and ensure sustainable development. The *Civil Code* and the *Real Estate Registration Act* establish a robust mechanism for safeguarding land use rights through public registration and disclosure of property information¹⁴. The *Civil Code* affirms ownership rights, encompassing the rights to possess, use, and dispose of

land¹⁵, while the *City Planning Act* and the *Building Standards Act* define zoning, land-use restrictions, and construction controls to promote balanced and sustainable urban growth¹⁶.

Japan's urban planning system, while rigorous, allows a degree of functional flexibility in land use. For example, commercial activities serving local residents may be permitted even within low-density residential zones, reflecting an integrated approach that combines residential and commercial uses to enhance community convenience and quality of life. This demonstrates Japan's pragmatic balance between regulatory order and adaptive land utilization¹⁷.

Moreover, Japan places particular emphasis on the dispute resolution mechanism for land-related conflicts. The country employs a dual system involving specialized courts and mandatory mediation procedures prior to litigation. This approach not only alleviates the burden on the judicial system but also plays a crucial role in maintaining social harmony and stability a central value in Japanese legal culture.

Within Japan's legal framework, the adjudication of land use disputes represents a complex and distinctive area of law, shaped by the interplay between property ownership, land-use planning, and public policy. The Japanese model reflects a deliberate effort to balance private ownership with centralized management, ensuring the protection of agricultural land, the preservation of the environment, and the sustainable development of urban and rural communities. This equilibrium aligns closely with Japan's long-term national development strategy and its broader commitment to community well-being and ecological stewardship.

2.5 General observations

The comparative analysis of land use rights legislation in The United States, China, France, and Japan reveals a rich diversity in legal design, reflecting distinct ownership regimes, governance philosophies, and socio-legal traditions. Each system embodies a particular balance between state authority, private ownership, and public interest.

In the United States, the legal framework strongly safeguards private property rights, fostering a dynamic and market-driven land economy. Nevertheless, this freedom operates within the boundaries of robust zoning laws and environmental protection statutes, which function as key instruments of regulatory oversight¹⁸.

China, by contrast, adopts a state-ownership model in which land remains under collective or state control, while use rights are allocated for limited terms. This arrangement reflects both socialist principles and market-oriented reforms, allowing the State to retain strategic control over

¹⁰ Nguyen Thi Mai (2021), "The Legal Institution of Real Property Ownership under the French Civil Code." *Vietnamese Journal of Legal Sciences*, No. 2/2021.

¹¹ Pham Van Khanh (2022), "The Legal Framework of Divided Real Property Rights in France and Lessons for Vietnam." *Journal of Legal Studies*, No. 6/2022.

¹² Gérard Cornu (2016), *Droit civil - Les biens*, Montchrestien.

¹³ Michel Prieur (2018), "La protection juridique des espaces naturels en France", *Revue juridique de l'environnement*, No. 3.

¹⁴ Hoang Nhat Quang (2023), *Land use rights and the protection of property ownership in Japan. Journal of Legislative Studies*, (9).

¹⁵ *Civil Code of Japan, Act No. 89 of April 27, 1896* (amended 2020).

¹⁶ Christopher D. Emerson (2015), "Land Reform in Japan: Lessons for Developing Countries", *Asian Survey*, Vol. 55, No. 4.

¹⁷ Le Bao Anh (2022), *Land dispute resolution in Japan. Journal of State and Law*, No. 4.

¹⁸ Tran Thi Minh Chau (2023), "Developing a Transparent Land Use Rights Market in Vietnam", *State Management Review*, No. 4.

land while promoting efficient and economically productive utilization through a hybrid system of administrative regulation and market mechanisms¹⁹.

France and Japan have established sophisticated legal systems that reconcile private property protection with stringent spatial planning and environmental regulation²⁰. Both jurisdictions emphasize the primacy of the public good, ensuring that land development aligns with broader community interests and ecological sustainability²¹. Importantly, their laws provide transparent and procedurally fair mechanisms for land expropriation, guaranteeing equitable compensation to affected owners and reinforcing public trust in land governance.

Overall, while differing in structure and ideology, these four jurisdictions share a common orientation toward ensuring stability, transparency, and balanced development in the management of land use rights. Their experiences offer valuable insights for Vietnam in its ongoing effort to harmonize private land interests with state management and sustainable development objectives.

3. Values and implications for Vietnam

A comparative study of land use rights legislation in the United States, China, France, and Japan each reflecting distinct ownership regimes and legal traditions offers valuable insights for Vietnam in improving its legal framework governing land use rights.

First, Vietnam should enhance the legal institution of land use rights, ensuring transparency, fairness, and equitable protection. Experiences from the United States and France demonstrate that safeguarding private property rights, particularly land use rights, constitutes the foundation for a sustainable and efficient land market. Vietnam should refine its legal system to ensure that land use rights are clearly defined, transparently registered, and efficiently transacted and enforced. Compensation mechanisms for state expropriation should also be transparent and grounded in market-based valuations to protect lawful stakeholders.

International experience further underscores that a clear delineation of the content and scope of land use rights and their stable enforcement is a prerequisite for building a transparent real estate market. Vietnam can draw from China's model in distinguishing between the rights of the state, collectives, and individuals, while simultaneously enhancing the circulation and transferability of land use rights within a well-regulated legal framework. In a comparative perspective, Vietnam should consider combining China's clear differentiation between ownership and use rights with the robust property protection and strict planning systems of The United States, France, and Japan to establish a coherent and effective legal regime.

Second, ensuring the stability and long-term nature of land use rights is essential. China has successfully "marketized" land use rights within a state ownership regime, generating

significant fiscal revenues and stimulating economic development. Vietnam can learn from China's approach in setting differentiated land use durations based on purpose, coupled with transfer conditions that balance state control and market flexibility.

Given the similarities between China and Vietnam in land ownership regimes, Vietnam may also adopt mechanisms allowing long-term land use such as China's 70-year tenure for residential land or France's long-term leasehold models to promote investor and citizen confidence. These arrangements can help change perceptions of temporary land tenure and foster stable, long-term land utilization.

Third, Vietnam should aim to develop an efficient and flexible market for land use rights.

Experience from The United States and France shows that allowing market forces to determine land prices optimizes resource allocation, but requires state intervention to protect the public interest, prevent speculation, and preserve environmental and social stability.

Drawing from China's practice of using auctions and leaseholds to generate fiscal revenues and fund infrastructure, Vietnam could further develop a transparent, technology-driven land use rights market, supported by a comprehensive and accessible land information database.

The legal systems of France and Japan demonstrate the effectiveness of combining rigorous state planning with market mechanisms to ensure sustainable land development. Vietnam should therefore strengthen spatial planning, zoning, and public land management while maintaining sufficient flexibility for market adaptability.

Moreover, Japan's and China's approaches to protecting the rights of rural landholders during land conversion and expropriation provide valuable lessons for Vietnam. Policies ensuring fair compensation, resettlement support, vocational training, and sustainable livelihoods are essential for mitigating social and environmental impacts.

Fourth, strengthening urban planning, land management tools, and dispute resolution mechanisms is vital.

Countries such as The United States, France, and Japan have developed comprehensive and legally binding urban planning systems that serve as the foundation for effective land use management. Vietnam should improve its planning processes to ensure integration, transparency, and enforceability, learning from these countries' balance between development and preservation. For instance, France's experience in integrating sustainable development goals and heritage protection, and Japan's practice of zoning for urban expansion and infrastructure optimization, are particularly instructive.

In addition, adopting Japan's model of specialized land courts or mandatory mediation prior to litigation could help Vietnam reduce prolonged disputes. Strengthening the capacity of local mediators and leveraging digital technologies to enhance transparency in land administration would further improve governance effectiveness.

4. Conclusion

The comparative analysis of land use rights legislation in the United States, China, France, and Japan reveals that each country adopts a distinctive approach shaped by its ownership structure, historical evolution, and level of socio-economic development. Although Vietnam's land regime is characterized by collective ownership under the people's ownership model, several elements from these systems such

¹⁹ Nguyen, Van Cuong (2021), "Integrating Land Use Planning with Environmental Protection" Vietnamese Journal of Legal Sciences, No. 6.

²⁰ Le Van Hoa (2020), "Ensuring the Rights of Land Users in the Context of Urbanization." Journal of Democracy and Law, No. 9.

²¹ Michel Prieur (2018), "La protection juridique des espaces naturels en France", Revue juridique de l'environnement, No. 3.

as the clear definition of land use rights, legal certainty and stability, the facilitation of land circulation, and the protection of state and community interests offer valuable lessons.

A selective and contextual adaptation of foreign experiences from these four jurisdictions can significantly contribute to refining Vietnam's land law framework, aligning it with the country's goals of economic modernization, social equity, and international integration.

Nevertheless, as Vietnam continues to develop a transparent, equitable, and efficient market for land use rights, the challenge lies in designing a legal system that both protects legitimate users' rights and serves the broader public interest. The Vietnamese legal framework on land use rights should therefore evolve through a balanced and context-sensitive process, one that draws upon international best practices while remaining consistent with Vietnam's socialist orientation and national realities. This approach will enable Vietnam to harness the strengths and avoid the shortcomings of foreign models, ultimately fostering a sustainable and inclusive system of land governance.

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