

THE EVOLUTION OF LAND USE RIGHTS: ROMAN EXPERIENCE AND CHINESE QUESTIONS—A REVIEW OF WANG YANG’S IL REGIME GIURIDICO DELL’AGER ROMANUS E IL DIRITTO FONDIARIO DELLA CINA ODIERNA

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Table Of Contents

I. INTRODUCTION	256
II. THE CORE THEMES OF THE BOOK.....	259
A. Land Legislation as a Product of Political and Socio-Economic Interaction.....	259
B. The Separation of Ownership and Use as the Driving Force Behind the Refinement of the Property Rights System..	260
III. METHODOLOGICAL FEATURES AND ACADEMIC CONTRIBUTIONS.....	262
A. Methodological Features	262
1. An Integrative Research Perspective that Transcends Private Law.....	263
2. A Historical Analytical Approach Tracing Concepts from Practice.....	263
3. A Paradigm of Direct Historical-Comparative Analysis	264
B. Academic Contributions	265
1. A Supplement to Roman Law Research in the Chinese Academy.....	265
2. The Referential Value of the Comparative Framework	265
IV. THE SECURITY OF LAND USE RIGHTS ON PUBLICLY OWNED LAND.....	266
A. Dimensions for Measuring the Security of Land Use Rights.....	266
B. An Assessment of the Security of China’s Land Usufructuary Rights.....	268
C. Lessons from Roman Experience	270
V. CONCLUSION.....	271

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Abstract

Wang Yang's book provides a systematic examination of the historical evolution of the Roman land system from the regal period to the late Republic, and offers a direct comparative analysis between the Roman experience and contemporary Chinese land institutions. Two core themes run through the book, that the evolution of land institutions is a product of the interaction between political structures and socio-economic conditions, and that the separation of ownership and use serves as the fundamental driving force behind the refinement of the property rights system. Methodologically, the book adopts an integrative perspective that transcends private law, a historical analytical approach tracing the genesis of legal concepts from practice, and a method of direct comparison. Building upon this foundation, this review draws on the evolution of Roman public land utilization models to propose a set of evaluative dimensions for measuring the security of land use rights on publicly owned land, and applies these dimensions to assess the current state of China's land usufructuary rights across different aspects of security.

Key Words: *Roman ager publicus; land institutions; usufructuary rights; comparative law*

I. INTRODUCTION

China operates under a system of public land ownership. The Real Right Law of 2007 and the subsequent Civil Code of the People's Republic of China established various usufructuary rights on state-owned and collectively owned land, including the right to use land for construction purposes, the right to contractual management of land, and homestead use rights, thereby forming a framework in

which ownership remains public while modes of utilization have become increasingly diversified. In recent years, scholarly discussion surrounding this framework has continued to deepen, addressing the extent to which ownership and use can be separated,¹ the appropriate modes of public authority intervention in land rights relations,² and how land use rights can obtain adequate legal protection.³ Responding to these questions requires not only doctrinal interpretation of existing norms, but also insights drawn from the historical experience of institutional evolution.

Over a period spanning more than a millennium, the Roman land system underwent a developmental trajectory from predominantly public land, through diversified modes of utilization, to the gradual privatization of public land. This trajectory bears deep structural similarities to China's current land institutions. The *ager publicus* constituted a central feature of the Roman Republic's land system, nominally belonging to the Roman people as a whole. Through ongoing struggles between the patricians and the plebeians, a variety of public land utilization models emerged, including occupied land (*ager occupatorius*), censorial land (*ager censorius*), and perpetual possession. By the late Republic, the public land had moved toward privatization through the epigraphic agrarian law (*lex agraria epigraphica*). A notable characteristic of this process is that legal

1 See Gao Shengping (高圣平), *Minfadian Yu Nongcun Tudi Quanli Tixi: Cong Guishu Dao Liyong* (《民法典》与农村土地权利体系: 从归属到利用) [*The Civil Code and the Rural Land Rights System: From Attribution to Utilization*], 6 BEIJING DAXUE XUEBAO (ZHEXUE SHEHUI KEXUE BAN) (北京大学学报(哲学社会科学版)) [JOURNAL OF PEKING UNIVERSITY (PHILOSOPHY AND SOCIAL SCIENCES)] 143 (2020).

2 See Li Guoqiang (李国强), *Gongquanli Jieru Nongcun Tudi Quanli Guanxi De Guifan Luoji* (公权力介入农村土地权力关系的规范逻辑) [*The Normative Logic of Public Power Intervention in Rural Land Rights Relations*], 6 SUZHOU DAXUE XUEBAO (ZHEXUE SHEHUI KEXUE BAN) (苏州大学学报(哲学社会科学版)) [JOURNAL OF SOOCHOW UNIVERSITY (PHILOSOPHY AND SOCIAL SCIENCE EDITION)] 76 (2025).

3 See Fang Shaokun (房绍坤) & Lin Guanghui (林广会), *Tudi Jingyingquan De Quanli Shuxing Tanxi* (土地经营权的权力属性探析) [*An Analysis of the Nature of Land Management Rights*], 3 ZHONGZHOU XUEKAN (中州学刊) [ACADEMIC JOURNAL OF ZHONGZHOU] 45 (2019); Song Zhihong (宋志红), *Zai Lun Tudi Jingyingquan De Xingzhi* (再论土地经营权的性质) [*Revisiting the Nature of Land Management Rights*], 2 DONGFANG FAXUE (东方法学) [ORIENTAL LAW] 146 (2020).

concepts and categories of property rights were not the product of abstract juristic reasoning, but gradually took shape through land utilization practices under specific political and economic conditions.

In Chinese legal scholarship, research on Roman law has primarily focused on doctrinal concepts such as ownership and possession,⁴ while systematic historical examinations centered on land legislative practice have been relatively scarce, and efforts to draw systematic comparisons between Roman land experience and Chinese land institutions remain limited. Wang Yang's II regime giuridico dell'ager Romanus e il diritto fondiario della Cina odierna (The Legal Regime of the Roman Ager Publicus and Contemporary Chinese Land Law) represent a valuable contribution in this direction. The book comprises seven chapters. The first six systematically examine the historical evolution of the Roman land system from the regal period to the late Republic, covering the formation and differentiation of clan collective land, the land struggles between plebeians and patricians, the typological development of public land utilization models, the institutional effects of the Gracchan reform, and the privatization process confirmed by the epigraphic agrarian law. Chapter Seven shifts its perspective to contemporary China, devoting an entire chapter to examining the structural features of China's land rights system from both constitutional and civil law perspectives, and exploring the referential significance of Roman public land utilization models for China's land use rights regime.

This review proceeds along four dimensions. First, it distills two core themes that run through the entire book: how the evolution of land institutions is conditioned by the interaction between political structures and socio-economic conditions, and how the separation of ownership and use drives the refinement of the property rights system, elucidating how the content of each chapter supports these themes (Part II). Second, it evaluates the book's methodological features, including its integrative research perspective that transcends private law, its historical analytical approach that traces the genesis of

4 See Ma Xinyan (马新彦), *Luomafa Suoyouquan Lilun De Dangdai Fazhan* (罗马法所有权理论的当代发展) [*Contemporary Developments of Roman Law Ownership Theory*], 1 FAXUE YANJIU (法学研究) [CHINESE JOURNAL OF LAW] 114, 114–124 (2006); Zou Caixia (邹彩霞), *Zhanyou, Zhanyou Zhidu Jiqi Gongneng* (卫占有、占有制度及其功能) [*Possession, the Institution of Possession, and Its Functions*], 4 FAZHI YU SHEHUI FAZHAN (法制与社会发展) [LAW AND SOCIAL DEVELOPMENT] 95, 95–104 (2009).

concepts from practice, and its paradigm of direct historical-comparative analysis (Part III). Finally, drawing upon the Roman experience provided by the book's first six chapters, it proposes a multidimensional analytical framework for measuring the security of land use rights on publicly owned land, and uses this framework to assess the current state of various usufructuary rights in contemporary China, exploring possible directions for institutional evolution (Part IV).

II. THE CORE THEMES OF THE BOOK

Although each chapter of the book addresses specific questions from different historical periods and different legal systems, two core themes can be identified as running through the work as a whole.

A. *Land Legislation as a Product of Political and Socio-Economic Interaction*

The book's first five chapters trace the evolution of the Roman land system from the regal period to the late Republic in chronological order. Before the formation of the Roman city-state, land ownership was primarily a question of political organization. The existence of clan collective land (*ager gentilicius*) was inseparable from the social function of the clan (*gens*) as a basic political unit. The author introduces the "political theory" advanced by Bonfante and Capogrossi, which understands early land ownership as an extension of political sovereignty rather than property rights in the modern sense, with individuals' access to land being premised upon their status within the political structure of the city-state.⁵ During the Republican period, the plebeians and patricians engaged in prolonged struggles over public land. Although the *ager publicus* nominally belonged to the city-state, it was in practice monopolized by the patrician class. Through the institution of "occupied land," the patricians enjoyed what amounted to *de facto* ownership of public land, deriving substantial economic benefits without bearing excessive political burdens.⁶

5 Wang Yang, *Il regime giuridico dell'ager Romanus e il diritto fondiario della Cina odierna* [*The legal regime of the ager Romanus and the land law of today's China*] 12-17 (La Casa Editrice Francesco Ciolfi, 2016).

6 See WANG YANG (汪洋), LUOMAFASHANG DE TUDI ZHIDU: DUILUOMA TUDI LIFA JI TUDI GUISHU YU LIYONG DE LISHI KAOCHA (罗马法上的土地制度：对罗马土地立法及土地归属与利用的历史考察) [THE LAND SYSTEM IN

The lex Licinia de modo agrorum of 367 BC imposed an upper limit on the area of public land that patricians could occupy, initiating the historical process of transition from public land possession to civil law ownership (dominium). Subsequently, the Gracchan reform created a transitional form of “perpetual possession,” under which public land in excess of the prescribed limit was reclaimed from patricians without compensation and distributed to the poor; holders enjoyed the powers of exclusive use and benefit, but could not freely alienate the land.⁷ The epigraphic agrarian law then confirmed the previously transitional state between public and private as an irreversible privatization outcome, while maintaining a final vestige of “public” character through the payment of rent (vectigal) to the treasury.⁸ Throughout this developmental process, each major transformation in land legislation was not the product of abstract juristic reasoning based on any particular property theory, but rather the result of specific political and economic structural conditions.

Chapter Seven shifts its perspective to contemporary China, revealing a similar pattern of interaction. From land reform to full collectivization, and then to the birth of the household contract responsibility system in 1978, each transformation in China’s land institutions has been closely tied to adjustments in political and economic policy.⁹ This comparison demonstrates that, in two vastly different historical contexts, the evolution of land institutions exhibits a common pattern: legal institutional change is always embedded within specific political-constitutional and socio-economic structures, rather than evolving autonomously in a vacuum.

B. The Separation of Ownership and Use as the Driving Force Behind the Refinement of the Property Rights System

The book’s other core theme is that when the nominal ownership of land cannot or should not be altered, legal innovation concentrates on the diversification and refinement of use rights, and that the fundamental force driving this process is the practical demand of users for stable expectations.

This theme first manifests in the Roman context through the

ROMAN LAW: A HISTORICAL EXAMINATION OF ROMAN LAND LEGISLATION AND LAND OWNERSHIP AND UTILIZATION] 5 (2012).

7 *Id.* at 90–91.

8 Wang, *supra* note 6, at 8.

9 Wang, *supra* note 5, at 147–152.

patricians' choice of possession over ownership. Under the constitutional framework in which public land nominally belonged to the city-state, the patricians could not legally claim ownership of public land, but could obtain de facto exclusive use through long-term occupation and exclude third-party interference through praetorian interdicts.¹⁰ However, the institution of *ager occupatorius* was inherently unstable, as it could discourage long-term investment in the land. It was precisely this insecurity that prompted the Romans to gradually develop more diversified models of public land utilization. Chapter Six provides a typological summary of the various legal forms of public land during the Republican period, including registered pastureland (*ager scripturarius*), quaestorian land (*ager quaestorius*), and censorial land (*ager censorius*), each corresponding to different rights, consideration mechanisms, and durational arrangements that provided possessors with a degree of certainty and status security. Building upon this typological diversification, the Gracchan reform further created the transitional form of "perpetual possession." This arrangement still retained certain residual characteristics of public ownership at the level of attribution, but at the level of utilization it already approximated private ownership. Ultimately, when the existing concept of ownership could no longer accommodate these diversified utilization forms, Roman jurists chose not to expand the institution of ownership, but instead created the system of rights over another's property (*iura in re aliena*), transforming what had been merely obligatory relationships between persons and land into far more potent and durable proprietary relationships.¹¹ This choice marked the transition of the Roman property rights system from an ownership-centered unitary structure to a pluralistic structure in which ownership and rights in another's property coexist.

In the Chinese section, the author identifies a striking structural similarity. China's current system operates on the premise that land belongs to the state or to collectives; yet in practice, through the separation of use rights from ownership, land use rights have become more important in practice than ownership.¹² This institutional logic is consistent with the basic principle of the Roman public land utilization model: under the premise of unchanged nominal ownership, the refinement of use rights serves as the means of responding to the demands of economic development. The author characterizes the

10 *Id.* at 54–55.

11 Wang, *supra* note 6, at 316–318.

12 Wang, *supra* note 5, at 162–164.

three Chinese land rights—the right to use land for construction purposes, the right to contractual management of land, and homestead use rights—as rights over another’s property (*iura in re aliena*) in the Roman law sense, and analyzes their content and features in turn.

At the economic level, the author raises a core question that spans both the Roman and Chinese systems: how the uncertainty of the duration of use rights leads to short-sighted management.¹³ The author draws a parallel with the Roman *ager occupatorius*: in the early Republic, occupied land was protected by possessory interdicts but could theoretically be reclaimed by the city-state at any time, and this instability discouraged long-term investment. The Roman solution was to create various utilization regimes alongside the *ager occupatorius*, exchanging periodic payment of consideration for a more stable possessory status.

From this analysis, the author arrives at the book’s core normative proposition: for contemporary China, the most important task is to ensure sufficient security and stability of land use rights within the existing framework of public ownership. Specifically, the author recommends that when half of the term of a land grant or contract has elapsed, the administrative authority or collective organization should choose either to renew the contract or to compensate the right holder for the increased value of the land resulting from improvements upon expiration, while predetermining the renewal fee so that the right holder’s expectations can be substantively secured.¹⁴ The historical experience of the Roman land system demonstrates that, under the premise of unchanged public ownership, the enhancement and refinement of use rights in response to economic development needs is a historically proven and viable path.

III. METHODOLOGICAL FEATURES AND ACADEMIC CONTRIBUTIONS

A. *Methodological Features*

The book exhibits three noteworthy methodological features that together distinguish it from conventional Roman law textbooks or legal-historical works.

¹³ *Id.* at 179.

¹⁴ *Id.* at 182–183.

1. An Integrative Research Perspective that Transcends Private Law

The book's examination of the Roman land system consistently extends beyond the confines of private law. Throughout the historical narrative of the first six chapters, the author repeatedly situates land legislation within the broader context of constitutional structures, class relations, and economic transformations. For example, the analysis of the fifth-century BC land struggles does not merely focus on specific land distribution rules, but instead interprets them as the projection in the domain of property of the plebeians' struggle for political equality. Similarly, the evaluation of the *lex Licinia* is not limited to its technical restriction on public land area, but reveals the constitutional significance of the law in affirming the legitimacy of plebeian participation in public land utilization. This perspective enables the author to present the social structures and political dynamics underlying legal rules, rather than treating the rules themselves as self-sufficient objects of analysis.

This perspective continues in Chapter Seven. The author's analysis of the legislative debates surrounding China's Real Right Law focuses less on the technical details of ownership rules and more on the structural constraints that the socialist basic economic system imposes on the private law system. The author's proposal to distinguish between ownership at the constitutional level and ownership at the civil law level represents precisely the application of this integrative perspective in the contemporary Chinese context, requiring researchers to first determine which questions fall within the domain of political decisions and which within the domain of private law technique before analyzing specific property rules.

2. A Historical Analytical Approach Tracing Concepts from Practice

The book's second methodological feature lies in its treatment of core legal concepts. Rather than presupposing that concepts such as "ownership," "possession," and "rights in another's property" have determinate content and then using these concepts to organize historical material, the author traces the historical process through which these concepts gradually took shape in concrete land utilization practices.

This approach from practice to concept may be characterized as an orientation of institution before concept. It means that legal

concepts are not the starting point but the endpoint of historical narrative, and that the researcher's task is not to trim history to fit ready-made concepts, but to discover from history the conditions and processes of conceptual genesis. This orientation is methodologically significant because a common risk in Roman law scholarship is to "read backward" ancient institutions using the conceptual system of modern doctrinal analysis, projecting the meanings that modern jurisprudence assigns to "ownership" or "property rights" onto the early stages of Roman law, thereby obscuring the institutional reality that existed before these concepts were formed.¹⁵ By maintaining the priority of historical analysis, the book avoids this risk to a considerable extent.

3. A Paradigm of Direct Historical-Comparative Analysis

The book's third methodological feature lies in the comparative approach adopted in Chapter Seven. In comparative legal research within Chinese scholarship, the common practice for comparing Roman law with contemporary Chinese law is to use modern continental European civil law—especially German civil law—as an intermediary, first examining how Roman law was received in modern Europe, and then analyzing how China drew on modern European experience. The advantage of this indirect comparison lies in its traceable chain of legal transplantation, but its limitation is equally clear: it presupposes that the linear transmission path, that from Rome to modern Europe to contemporary China is the sole or primary frame of reference for understanding Chinese institutions.

The book adopts a different strategy. Chapter Seven bypasses intermediary links such as German property law or the French Civil Code and instead conducts a direct structural comparison between the Roman public land utilization regime and the Chinese land use rights regime.¹⁶ The basis for this direct comparison does not lie in any historical lineage between the two systems, but rather in the fact that both face a structurally similar institutional challenge: how to respond to the demands of economic development through the

15 See HENRY MAINE, *ANCIENT LAW* 168–169 (Shen Jingyi trans., Commercial Press 2023).

16 On the functionalist method in comparative law, see KONRAD ZWEIGERT & HEIN KÖTZ, *BIJIAO FA ZONG LUN (SHANG) (比较法总论(上))* [AN INTRODUCTION TO COMPARATIVE LAW, VOL. I] 58 et seq. (Pan Handian et al. trans., Law Press 2017).

diversification of use rights under the premise of nominally public land ownership.

B. Academic Contributions

1. A Supplement to Roman Law Research in the Chinese Academy

However, there exists a certain imbalance in the thematic distribution of existing research. In the area directly relevant to the book under review, systematic historical examinations centered on land legislative practice and integrating political history with legal history have been relatively lacking. Most Roman law works, when addressing land-related questions, tend to treat land as one among several objects of ownership within the framework of ownership doctrine, rather than conducting an independent institutional-historical examination centered on land itself.¹⁷ By taking the evolution of the Roman *ager publicus* as its main line and elevating the land question from its subordinate position within ownership doctrine to an autonomous object of study, this book makes a supplementary contribution in this direction.

Moreover, the book's publication in Italian and in Italy carries significance at the level of academic exchange. It enables the research outcomes of a Chinese scholar on Roman land institutions to enter directly into Italian-language academic discourse, rather than circulating solely within the Chinese academy. Given that Italy represents the core scholarly tradition in Roman law research, the book's publication provides a concrete channel for Chinese scholars to participate in the international dialogue on Roman law.

2. The Referential Value of the Comparative Framework

The comparative analysis in Chapter Seven provides a frame of reference for contemporary discussions of Chinese land institutions that differs from existing approaches. In Chinese legal scholarship, the most commonly invoked comparative objects for discussing Chinese land institutions are the land rights systems of common law

17 PIETRO BONFANTE, *LUOMAFÀ JIAOKESHU* (罗马法教科书) [ISTITUZIONI DI DIRITTO ROMANO] 160 et seq. (Huang Feng trans., China Univ. of Political Sci. & Law Press 2018); BARRY NICHOLAS, *LUOMAFÀ GAILUN* (罗马法概论) [AN INTRODUCTION TO ROMAN LAW] 115 et seq. (Huang Feng trans., rev'd ed., Law Press 2021).

jurisdictions and the property law regimes of civil law countries such as Germany and Japan. A common feature of these comparisons is that the reference systems themselves are based on private ownership.

The Roman law frame of reference provided by Chapter Seven is different in kind. The Roman public land system likewise began from the premise that “land belongs to the public,” and the core question it addressed was: how to release the economic value of land through the refinement of use rights under the premise of unchanged public ownership. This bears a structural similarity to the institutional constraints facing contemporary China. The normative proposition derived by the author provides a new argumentative approach for discussions of Chinese land institutions: even without changing the nominal ownership of land, institutional objectives can be achieved through strengthening the legal protection of use rights.

IV. THE SECURITY OF LAND USE RIGHTS ON PUBLICLY OWNED LAND

As noted above, the book’s core normative proposition is that the most important task within China’s current institutional framework is to ensure sufficient security and stability of land use rights. This proposition rests on the solid empirical foundation of the book’s first six chapters’ historical examination of the evolution of Roman public land utilization models. However, the book was published in 2016, and China’s land institutions have since undergone several significant changes, including the promulgation of the Civil Code and the deepening of the rural land “separation of three rights” reform,¹⁸ opening new space for discussion of the “security of land use rights” at the normative level. This section seeks to extend the discussion of the security of China’s land usufructuary rights, using the Roman experience provided by the book’s first six chapters as a frame of reference. Since the book’s analysis of the Chinese system in Chapter Seven was primarily based on the era of the Real Right Law, the following discussion uses the Civil Code as its normative basis.

A. *Dimensions for Measuring the Security of Land Use Rights*

To discuss the security of use rights on publicly owned land, it is first necessary to clarify the dimensions by which security is to be

18 See GAO SHENGPING (高圣平), NONGDI SAN QUAN FEN ZHI DE FALÜ BIAODA (农地三权分置的法律表达) [THE LEGAL EXPRESSION OF THE SEPARATION OF THREE RIGHTS FOR AGRICULTURAL LAND] 5–23.

measured. The book's examination of the evolution of Roman public land utilization models suggests that equating security with the duration of use rights is an oversimplification.

Under the Roman public land system described in Chapter Three of the book, the patricians' occupation of *ager occupatorius* could in fact continue for generations, approximating perpetuity. But this *de facto* longevity did not constitute legal protection of duration; the city-state could in theory always reclaim the public land, and the possessors could not convert their occupation into a legal right enforceable against the city-state. The patricians' ability to maintain long-term possession depended primarily on their own political position, not on the protection of legal institutions. Once the political landscape shifted, as the Gracchan reform demonstrated, this "perpetuity" was immediately disrupted.

By contrast, under the various public land utilization types described in Chapter Six (such as *ager quaestorius*), users were granted a legal position with a fixed five-year term but subject to renewal. Although the term was short, the institutional arrangement of periodic payment of consideration gave the user a certain legal basis for resisting reclamation by the city-state. These public land utilization types, through periodic payment, provided possessors with certainty and status security, such that the state could no longer easily interfere with these lands, even though theoretically they still belonged to the *ager publicus*.¹⁹ After the birth of the system of *iura in re aliena*, use rights—though they might carry a definite term—were equipped with a complete set of protective tools including *erga omnes* effect, alienability, and heritability,²⁰ making their actual security far superior to that of nominally "perpetual" but always revocable occupied land.

Based on the historical material provided by the book and on existing scholarship, four dimensions for measuring the security of use rights can be distilled: first, predictability of duration, i.e., whether the use right has a clear durational arrangement and predictable renewal rules upon expiration; second, effect against third parties, i.e., whether

¹⁹ Wang, *supra* note 5, at 182.

²⁰ See Wang Yang (汪洋), *Tudi Wuquan Guifan Tixi De Lishi Jichu* (土地物权规范体系的历史基础) [*The Historical Foundation of the Normative System of Land Property Rights*], 6 HUANQIU FALÜ PINGLUN (环球法律评论) [GLOBAL LAW REVIEW] 29 (2015).

the use right can be asserted against third parties and even against the owner; third, alienability, i.e., whether the use right can be transferred, inherited, or used as security; and fourth, post-expiration arrangements, i.e., whether the use right is automatically renewed, renewed for a fee, or terminated without compensation upon expiration.

Viewed through this framework, the evolution of Roman institutions reveals a pattern: *ager occupatorius* scored low on all four dimensions—nominally permanent but lacking legal protection, unable to effectively resist the city-state, limited in disposability, with uncertain post-expiration arrangements. The subsequent emergence of *ager quaestorius* and other types improved the first dimension (fixed term but renewable) and the second (periodic payment of consideration provided a legal basis against reclamation). The “perpetual possession” created by the Gracchan reform significantly strengthened the first dimension (permanent and irrevocable), but was restricted in the third (subject to a prohibition on alienation). Ultimately, the creation of *iura in re aliena* marked an improvement across all four dimensions: use rights gained a clear legal status, *erga omnes* effect, alienability, and heritability, with any applicable term being definite and predictable. As the book demonstrates, when Roman jurists faced diversified utilization needs, they ultimately chose to create new types of rights rather than expand the institution of ownership,²¹ a choice that itself signified the attainment by use rights of an independent legal status separate from ownership. The evolution from *ager occupatorius* to *iura in re aliena* was thus not a linear progression along the single dimension of duration, but a systematic process of gradually enhancing security across multiple dimensions.

B. An Assessment of the Security of China’s Land Usufructuary Rights

Applying the above analytical framework to the contemporary Chinese context, one can make a preliminary assessment of the security of the various land usufructuary rights provided for in the Civil Code.

Regarding the right to use land for construction purposes, Article 359, paragraph 1 of the Civil Code provides that the right to use residential construction land is automatically renewed upon

21 Wang, *supra* note 6, at 316.

expiration, placing it at a high level in the dimension of predictability of duration. However, the same provision stipulates that “the payment or reduction of renewal fees shall be handled in accordance with the provisions of laws and administrative regulations”; and no such provisions have yet been promulgated.²² For the right holder, automatic renewal ensures the continuation of the use right, but the uncertainty of renewal fees means that the economic cost of continuation cannot be estimated, which to some extent undermines the practical predictability of the institution. By comparison, the renewal arrangements for non-residential construction land use rights are even more ambiguous, with neither automatic renewal confirmed nor specific rules for paid renewal clarified. Regarding the right to contractual management of land, the 2018 amendment to the Law on Land Contract in Rural Areas confirmed in statutory form the policy of extending arable land contract terms by a further thirty years upon expiration, and the “long-term stability” policy orientation places this right at a relatively high level in the dimension of predictability of duration. Through the “separation of three rights” reform, the land management right separated from the right to contractual management of land can be transferred, representing a significant enhancement in the dimension of alienability. However, collective organizations continue in practice to readjust contracted land,²³ indicating that a gap remains between the legal guarantee of duration and the actual operation of the institution. Regarding homestead use rights, these present a distinctive pattern of imbalance across the four dimensions. In the dimension of predictability of duration, homestead use rights are in practice virtually perpetual—the law prescribes no term, and the right holder may retain them indefinitely. But in the dimension of alienability, homestead use rights face the most stringent restrictions: under current law, they may not be transferred to persons outside the collective economic organization and may not be mortgaged. Regarding the right to use collectively owned commercial construction land, Article 63 of the Land Administration Law, as

22 See Wang Liming (王利明), *Zhuzhai Jianshe Yongdi Shiyongquan Zidong Xuqi Guize* (住宅建设用地使用权自动续期规则) [*Rules on Automatic Renewal of the Right to Use Residential Construction Land*], 2 QINGHUA FAXUE (清华法学) [TSINGHUA LAW REVIEW] 73 (2017). As of 2026, the State Council has not yet promulgated specific provisions on the renewal fees for residential construction land use rights.

23 Wang, *supra* note 6, at 181. The author cites survey data indicating that a typical rural Chinese household experiences a land readjustment approximately once every ten years.

amended in 2019, for the first time permits collectively owned commercial construction land to enter the market through grant or lease. This institution is still in its early stages of construction, and the security arrangements along all four dimensions remain to be further clarified. Under the current framework, the establishment process involves considerable public authority approval requirements—including conformity with territorial spatial planning, preparation and review of grant plans, and designation of permitted uses—which, while safeguarding public interests, also make the establishment and change of rights dependent to a considerable extent on administrative decisions.

C. Lessons from Roman Experience

Comparing the trajectory of institutional evolution in Rome with the security profile of China's current institutions yields two insights.

First, the enhancement of the security of use rights is a process of gradual, multidimensional advancement, rather than a single leap along any one dimension. The Romans spent centuries progressing from *ager occupatorius* to *iura in re aliena*, with each step representing an improvement along one or several security dimensions under specific political and economic conditions. The various types of land usufructuary rights in contemporary China exhibit different levels of security across different dimensions, and this unevenness is not a defect of institutional design but rather a reflection of the fact that institutional evolution remains incomplete. Second, strengthening the security of use rights under the premise of public ownership is fundamentally about enabling use rights to achieve a legal status independent of ownership, rather than about changing the attribution of ownership. The Romans' ultimate choice to create the system of *iura in re aliena* rather than expand the concept of ownership in response to diversified utilization needs carries referential significance for contemporary China. Under the basic economic system in which public ownership is predominant, enhancing the security of use rights to release the economic value of land is a path that can be pursued without touching the question of ownership attribution. The historical examination in this book demonstrates that this path is not a uniquely Chinese institutional creation, but rather a historically well-attested institutional experience for responding to economic development needs within a framework of public ownership. Admittedly, the institutional environments of China and Rome differ fundamentally, but it is precisely this difference that lends the basic logic of the Roman experience.

Responding to diversified needs through the refinement of use rights under the premise of unchanged public ownership is a distinctive referential value for China's institutional choices.

From the perspective of the sociology of law, Rome and China exhibit a similar pattern at the socio-economic level of land utilization: in both contexts, the factual order of occupiers' possession and utilization of land, what Ehrlich termed the "possessory order", preceded the construction of legal norms.²⁴ The patricians' long-term occupation of public land, and Chinese farmers' de facto cultivation and management of land following the reform and opening up, both illustrate a sequence in which socio-economic facts of possession preceded legal recognition of rights. This pattern of "possession before ownership" may explain why two vastly different civilizations, when confronting the question of how to secure use rights on publicly owned land, independently developed institutional responses that are structurally similar.

The book's systematic examination of the evolution of Roman public land utilization models in its first six chapters provides an analytical framework of considerable historical depth for understanding the questions discussed above, revealing an internal logic of institutional evolution. Under the premise of public ownership, the enhancement of the security of use rights is a process that can be gradually advanced across multiple dimensions; its direction is clear, but its path may vary according to the type of right and the social conditions. This recognition may prove useful for understanding the current state of China's system of land usufructuary rights and its possible direction of evolution.

V. CONCLUSION

The historical experience of the Roman land system demonstrates that institutional innovation centered on land use rights under the premise of public ownership is not an isolated experience of

24 See EUGEN EHRLICH, *FASHEHUI XUE YUANLI* (法社会学原理) [FUNDAMENTAL PRINCIPLES OF THE SOCIOLOGY OF LAW] 452-53 (Manfred Rehbinder ed., Shu Guoying trans., Commercial Press 2023). Ehrlich distinguished between the "possessory order" (the factual state spontaneously formed through socio-economic life) and the "ownership order" (the normative expression by jurists and legislators of that factual state), arguing that historically the former preceded the latter.

any particular civilization, but rather an institutional logic that large political communities may share in responding to the demands of economic development. Wang Yang's book, through its systematic examination of several centuries of evolution of the Roman public land system, reveals the historical dimensions of this logic and, through its direct comparison with the Chinese land system, endows this historical examination with contemporary significance. The value of the book lies not only in supplementing a gap in Chinese-language Roman law scholarship regarding historical examinations centered on land legislative practice, but more importantly in providing a new perspective from which to view China's land institutions.

To be sure, the book was published in 2016, and Chapter Seven's analysis of the Chinese system was primarily based on the institutional conditions of the Real Right Law era; some of its content requires updating in light of the promulgation of the Civil Code and recent land reform initiatives. Yet this does not diminish the scholarly value of the first six chapters. To the contrary, the book's historical examination of the evolution of Roman public land utilization models provides an analytical framework of historical depth for analyzing the question of the security of land usufructuary rights in the era of the Civil Code. The four-dimensional framework for assessing the security of land use rights proposed in Part IV of this review has grown directly from this historical examination. The unevenness of various land usufructuary rights across the dimensions of predictability of duration, effect against third parties, alienability, and post-expiration arrangements both reflects the fact that institutional evolution remains incomplete and points toward directions for future theoretical exploration and institutional refinement.