

# Research on the Application of Village Regulations and Folk Conventions in Social Governance of Rural Areas

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**Keywords:** village regulations and folk conventions; social governance; rural areas

**Abstract:** In the historical development of China's rural society, the village regulations and folk conventions have always been one of the indispensable elements in the process of building and maintaining rural order. After the reform and opening up, China's rural society entered an unprecedented era with great changes. Social interest occurred obvious differentiation, and diversified interest pursuit brought new challenges to the rural social governance mode and means. In this paper, we make the research object located in the applications of village regulations and folk conventions in social governance of rural areas. The establishment of the socialist market economic system has laid the economic foundation of the formation of village regulations and folk conventions. In addition, the pluralistic democratic society provides the political basis for the generation of village regulations and folk conventions. At the same time, village regulations and folk conventions displayed multi-disciplinary value in rural social governance. This study breaks through the limitation of single subject, and starting from the perspective of economics, law, sociology and so on different disciplines, constructs multi-dimensional research paradigm, which is conducive to a comprehensive and profound understanding of functions and value of village regulations and folk conventions in rural social governance.

## 1. Introduction

After the founding of new China to the reform and opening up, the country achieved further control of rural society in the way of establishing the general social. The people's commune system concluded each village even each peasant in the direct control of national public power. Such kind of strong control of the rural society made the farmers lose the activity in self-management and self-service, not conducive to the rational development of rural society [1]. After the reform and opening up, in the positive exploration, the rural society adopted the mode of rural governance, but there is still a gap between the governance effect and the ideal effect. In 1987, the "People's Republic of China Village Committee Organization Law (Trial)" was passed, in which the sixteenth one provided: "Village regulations and folk conventions were formulated by the villagers meeting through discussion, recorded at the township level people's government, and supervised and implemented by the villagers' committee [2]. Village regulations and folk conventions shall not contravene the constitution, laws and regulations." In the legal aspect, it provided such kind of conventions for the first time. After that, the village regulations and folk conventions have become the indispensable means in social governance of rural areas.

In the historical development of China's rural areas, the social governance role of village regulations and folk conventions has always been one of the essential elements in the construction and maintenance of rural order. Village regulations and folk conventions are the behavior specification spontaneously formed in the long-term practice of local people [3]. Essentially, it belongs to the category of folk law, which is the social rules out of the state law. National law maintains the whole country's social order, and in the rural social governance, the village regulations and folk conventions, in a sense, play the role of order construction same as the national law. In the rural governance, village regulations and folk conventions, through education, ethics and relevant punishment mechanism constraints, maintained the traditional rural society order with strict inherent penalties, which laid the foundation for the maintenance of the social order.

This study tried to analyze the economic functions in ideology in the construction of village regulations and folk conventions from economics theory, and to explore the thinking out of the litigation when people choose village regulations and folk conventions as the basis to deal with disputes from the legal theory. Therefore, the study on the village regulations and folk conventions has important theoretical significance.

## **2. Research status and analysis**

### **2.1 Foreign research status**

In the west, the study of rural social governance is mainly conducted from the perspective of public governance and community governance. In 1989, the world bank made use of "crisis management" for the first time, to summarize the problems of Africa. Since then, researchers began to focus on governance concept, content, function and so on. In addition, in the public governance and community construction, they also analyzed and studied the governance theories, and extensively applied these research results in the practice of rural social governance [4]. For example, as one of the main founders of the governance theories, James introduced the concept of governance in the "Governance without Government" and "Governance" in Twenty-first Century. The United Nations Global Governance Commission put forward in "Our Global Partnership" that the sum of various ways of individuals and institutions managing their affairs is governance. J. Kooiman argued that governance should be a process of interaction between multiple subjects.

Due to the rapid progress of industrialization and urbanization in western countries, the rural social governance is not the key issue in the study of social governance. The topic of them researches about the rural social governance in our country after 1950s and 1960s, focused on the collectivity and the change of rural society in the period of People's Commune, which often took the village case study for track research. For instance, William Hunting published "The Turning over -- a Chinese Village Record" in 1966 and "Revolution -- a Chinese Village Continuous Record". These two books are very real and they authentically record the social change of villages that Han ding focused on for decades [5]. They record the language of peasants and cadres at the grassroots level at that time, reserving the precious materials for us to study rural governance based on actual village.

### **2.2 Domestic research status**

After the middle of 1990s, the concept of "rural governance" was put forward, and scholars came to the rural society to explain and analyze the rural society. The research content of rural governance is very extensive, involving governance system, governance mechanism, governance mode, governance means, governance organization and so on. No matter what the research content is and from which perspective to research, the researches always focused on the core of rural social governance [6]. He Xuefeng put forward three major themes of rural governance. The first theme is that Chinese rural will be in the situation of "no worrying about hunger, but lacking well-off" for quite a long time. This situation is unable to support the various modern rural governance systems. The second theme is that the institutional arrangement has a profound dependence on rural society essence, and the same institution arranged in villages with different essence may have a very different effect. The third theme is that, the village, as the three-in-one space for farmers' production, life and entertainment, will not disappear in a short term. The village governance (or village group governance) is the core content of rural governance research. The three major themes of rural governance research constitute the research system of the three aspects of the macro, meso and micro level.

The research results in our country rural governance are abundant. Some scholars discussed from the aspects of regional rural governance mode, such as: Ye Mao studied it in the "feudal society Guanzhong mode"; He Xuefeng published a book named "Keywords of Guanzhong village governance mode"; Qin Hui and Jin Yan's "The Pastoral Poetry and Rhapsody - Understanding of Guanzhong Model and the Modern Society again" and so on. Some scholars studied the rural social governance from the perspective of traditional rural governance. For example, Tang Ming and so on sorted out the change of the governance mode of China's ancient village; Huang Jinlan believed that

the typical governance mode of traditional rural is the cross governance mode of "Imperial power as the longitude and the patriarchal clan as the latitude".

### **3. Value of village regulations and folk conventions in the rural social governance**

#### **3.1 Economic value orientation**

Although the state law is applicable to and shall be applied to all aspects of the whole country, because of the limits of the law, the state law did not actually play its proper value in some fields or some areas. On the contrary, the role of the spontaneous order in these fields or areas is more obvious. As folk rules generated in the rural society, the content of village regulations and folk conventions is more in line with the reality of rural society. The order control function in the rural society is also more easy to appear. The factors include rural social history and the reality situation, but also the economic factors.

The research field of ideology economic function is initiated by American new institutional economist North. With the property rights and transaction costs as the core, he expounded the functions of informal system including ideology, in overcoming the phenomenon of "free rider" and reducing transaction costs [7]. The ideology is the sum of perception, idea, and concept directly related to a certain social politics and economy, including political and legal ideology, morality, religion, literature and art, philosophy and other social sciences. Village regulations and folk conventions, as a concrete expression of peasant society concept, also belong to the category of ideology.

Although the ideology will be different in different stages of economic development and different institutional environment, people's economic behavior and non-economic behavior is always dominated by ideology and values. People's economic behavior will be based on their own values to make a choice, which is the foundation for the ideology to play a role in incentive function of the economic activities subject [8]. Through the moral motivation of the main body, it promoted the enthusiasm and vitality of its economic development. At the same time, it can make the economic activity subjects consciously abide by the necessary conduction rules, including the national formal rules and civil rules, such as the village regulations and folk conventions. The success of the ideological education can enhance people's awareness of obeying the rules, regulate and constrain people's behaviors [9]. As a result, it not only reduces the cost of the implementation of the rules, but also can reduce speculative behavior by using loopholes in the rules by some people to gain individual benefits in economic activities.

#### **3.2 Legal value orientation**

Because of the complex nature of the rural social disputes, it also shows the complexity and diversity in the way of solving the social disputes in rural areas. Although the rural social reform in the past thirty years of development, compared to the traditional rural society, has a larger change, the enhancement of legal awareness made the farmers aware of the importance of safeguarding their own rights [10]. However, the dispute is various in kinds, and to a certain extent, it affects the choice of dispute settlement mode for the dispute subjects, and also influences the regulations based on when solving the disputes.

In the diversified dispute settlement mechanism, it does not mean that only the litigation can protect the legitimate rights and interests of the parties, nor does it mean that civil disputes should be paid to the lawsuit. The diversity of rural social disputes determines that the way to solve the rural social disputes should be diversified [11]. The lawsuit is not a panacea. Only being fully aware of the role of the non-litigation dispute resolution in rural social reality, coordinating the parallel use of rural social non-litigation and litigation, can we construct the dispute settlement mechanism that the rural society really needed.

As a kind of social phenomenon, the existence of the dispute in the human society is inevitable. As a result, the perfect dispute settlement mechanism becomes the essential factor for maintaining social order and promoting social development. except for the public power relief offered by the country, in the folk, they spontaneously formed a variety of dispute resolutions, such as compromise, mediation, administrative departments solution and so on [12]. The ways out of litigation are more

effective in solving civil disputes in some aspects, especially in rural society. The way of solving disputes in rural society is different from that of modern western society. The way of non-litigation is still the main way to solve disputes in the modern rural society. Then, in non-litigation and litigation in rural society how to constitute the rural social dispute settlement mechanism in rural society dispute resolution plays a big role in the mechanism is, should be the subject of in-depth study.

#### **4. Conclusion**

In the theoretical sense, the paper makes a theoretical analysis of village regulations and folk conventions from the perspective of multi disciplines, which broadens the research perspective. In this way, we can not only analyze the role of village regulations and folk conventions in social governance of rural areas from the macro level, but also reflect what the village regulations and folk conventions can do and not do from the micro level through the concrete practice. This study tried to analyze the economic function of village regulations and folk conventions in the ideology in its construction, and to explore the functions of village regulations and folk conventions in the processing of disputes from the legal theory, providing a valuable reference for people. As a result, the study on village regulations and folk conventions has important theoretical significance.

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