Study on Land Law Enforcement Practice of Yunnan Province

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Abstract. The content of the paper is from the survey on land law enforcement of Yunnan Province entrusted by Yunnan Province Land and Resources Department and undertaken by the author independently in 2015. The objective of the paper is to organize the land law enforcement status of Yunnan Province, analyze difficulties and problems in land law enforcement, and then put forward solutions. The paper adopts literature analysis and field survey approaches to develop the research, and the main content is from actual survey results. The paper holds the opinion that the land law enforcement dilemma of Yunnan Province is caused by many reasons, and we need to take positive measures from the aspects of system, mechanism, legal system, reward and punishment, so as to improve the efficiency of land law enforcement.

1. Research Background

Yunnan Province is a less developed western region in China, which is in the stage of accelerated development of industrialization. In recent years, the land use demand of Yunnan Province increases quickly, but the land supply is restricted tightly. So, the land illegal behaviors become social focus which should be noticeable.

2. The Present Situation of Land Law Enforcement in Yunnan Province

2.1 Establish a strict punishment and prevention system for day-to-day law enforcement

Day-to-day law enforcement based on dynamic patrolling is the basic work of national land and resources law enforcement and supervision. Our province has built four-level dynamic patrolling network, namely prefecture (city), county (city and district), township, village (group) levels to cover the whole area, highlighted on key points, appointed responsibility in every level, and includes surveillance on every level thorough patrolling horizontally and longitudinally. Dynamic patrolling punishment & prevention system plays a positive role in the prevention, detection, suppression, reporting, investigation and punishment of various criminal activities.

2.2 Satellite remote sensing image law enforcement keeps severe punishment trend

Law enforcement with satellite remote sensing image is an important approach in national land and resources law enforcement and supervision work. From law enforcement examination with the help of land satellite remote sensing image during 2009-2016, Yunnan Province discovered, investigated and punished a great number of land law violation cases, and handled them all according to legal procedures. Grounded on years’ exploration and accumulation, land law enforcement of Yunnan Province with the help of satellite remote sensing image has realized the shift from department behaviors to government actions, from national land law enforcement to joint law enforcement, from special actions to routine supervision, from single punishment to equal stress on warning and accountability, from emphasis on investigation to equal stress on punishment and prevention, further completed “comprehensive coverage, whole-procedure supervision, technical support, law
enforcement supervision and social supervision” five-in-one law enforcement supervision system, seriously cracking down and punishing various land law violation behaviors.

2.3 Establish regulatory mechanisms and innovate the long-term supervision mechanism

Regulations and mechanisms are the cornerstone of improving national land and resources law enforcement, establishing and completing long-term supervision mechanism. Yunnan Province has always attached much importance to it, making itself a leader in the country. Yunnan Province has established dynamic patrolling accountability system successively during recent years, and case classified administration, information statistics, report filing, supervision with public notification, case evaluation system, amended and completed relevant systems with regard to new situations and circumstances in a timely way. In 2007, Yunnan Province invented the joint law enforcement mechanism as the pioneer in China, and attained pretty good practice in punishing national land and resources violations and crimes. Up to now, Yunnan has established 15 national land and resources law enforcement supervision related systems to promote law enforcement supervision mechanism, regulation and long-term construction continuously.

2.4 The comprehensive network of prevention and control and strengthen law enforcement supervision

Apply technological approaches comprehensively, develop comprehensive prevention and control involving “overseeing from the air, investigating from the ground, supervising online, reporting of the mass, surveillance with video, public notification, handling under supervision, warning and discussion with appointments, responsibility investigation”, and reinforce law enforcement supervision network. Main measures mainly cover: land law enforcement inspection with the help of satellite remote sensing image covers 129 counties (cities and areas) since 2009; earnestly develop patrolling inspection, and give the role of tier-one national land and resources supervision into full play to discover, stop, investigate and punish illegal behaviors in a timely way; gradually promote the “uniform administration” over law enforcement supervision information system and national land and resources administration, and connect “approving, supplying, using, compensating and investigating” comprehensive information supervision platforms; make full use of the public supervision via 12336 illegal tip-off hotline; earnestly fulfill responsibility investigation system, lay equal stress on investigation of people and the case involved, and increasingly strengthen accountability.

3. Problems Existing in Land Law Enforcement of Yunnan Province

3.1 Limited law enforcement rights and powers

National land and resources department does not own administrative mandatory enforcement power, so it is difficult to stop illegal behaviors without cooperation and stopping in a timely and effective way, resulting in the fact that the shutdown notice plays the role of construction expediting notice.

3.2 Unsmooth law enforcement system

The national land and resources department could only apply to the court for the mandatory implementation. The implementation efficiency is pretty low due to procedures, time limits, court, etc. After the Supreme People’s Court releases the stipulation of “separation of arbitrament and enforcement”, the court may give the verdict that the land and resources department carries out compulsory enforcement voluntarily, causing considerable negative impact on national land law enforcement.
3.3 Strong administrative intervention

The Ministry of Land and Resources is the department of the local people’s government, which is managed by the local government in terms of personnel, funds, materials and so on. As for violations of laws involving governmental factors, the national land and resources department would not like or dare to get involved. Hence the accountability for violation of laws is hard to be in place, and governmental impulsion of violations of laws cannot be contained.

3.4 Incomplete laws and stipulations

Articles about legal responsibilities for land law violation in “Land Administration Law of People’s Republic of China”, etc. are not operable in law enforcement practice, so at present the penalty instead of the laws.

3.5 Universal emphasis on exam & approval and negligence of supervision

Local governments including national land and resources departments are focused more on land exam & approval and land index than on land law enforcement supervision work, which is universally neglected.

Uniform land management policies of the state are not suitable for the situations of provinces in West China. The state fails to implement different land policies concerning infrastructure, industry undertaking, rural residential land, agricultural land for facilities, etc. with regard to current development stages and situations of Yunnan. When dealing with reasonable but unlawful land use for socioeconomic society development, national land and resources department encounters quite many law enforcement obstacles.

3.6 Backward land law enforcement team building

Firstly it is understaffed. Yunnan Province owns national territory 396,000 square kilometers, ranking in the 8th place in China, but it only has 1,385 staff engaged in national land and resources law enforcement supervision, i.e. 286 square kilometers per capita, and plus, Yunnan owns special geographical conditions with steep mountains, thick forests and inconvenient transportations, so it is difficult to realize effective supervision. Secondly the funds supply is inadequate. The basic fund for national land law enforcement is uniformly disbursed from the government finance, but the fund is not much and only enough for routine law enforcement, impossible to have law enforcement supervision post subsidy, personal insurance, personal accident insurance, etc. Thirdly the hardware equipment is backward. Equipment necessary for law enforcement is relatively scarce, causing negative impact on case investigation and evidence collection, etc.

4. Ways to Complete Land Law Enforcement of Yunnan Province

4.1 Carry out basic prevention work

Firstly promote to build dynamic patrolling prevention systems. Build a rigorous patrolling assessment index system. Shift the focus of patrolling work to counties, townships and villages, and strengthen law enforcement capability building of township national land resources offices; secondly expand violation of law discovering capability and channels. Integrate the whistle-blowing information resources, complete social supervision mechanism, promote village-level law enforcement information officer and coordinator employment system, and strive to resolve problems at the first time and in tier one; thirdly complete coordinated stopping mechanism for law violations. Strengthen coordination with departments concerning reform and development, planning, construction, real estate property, power, bank, etc., and build a joint law violation prevention work mechanism. Explore the joint linkage work mechanism with public security departments, and reinforce law enforcement deterrence and mandatory execution; fourthly fulfill illegal behavior reporting system. Fulfill national land and resources department’s illegal behavior reporting system,
build and complete illegal behavior regular reporting and special reporting system of Yunnan Province, and facilitate early discovery and handling of violation of laws.

4.2 Promote the construction of law enforcement supervision system with satellite remote sensing image

Firstly improve law enforcement examination routines with the help of satellite remote sensing images. Strengthen the analysis and application of monitoring results and supervision results, grasp case highlights, trends and rules, form relatively steady measures, systems and mechanisms with relatively strong guidance, and promote effective and intensive work; secondly have diversified rectification and investigation ways for violations of laws. Fulfill supervision and handling with public notices and public case investigation systems, and explore ways of adopting violation of law early warning, appointing a time limit for rectifications, suspending land use acquisition exam & approval, advanced discussions, etc., in an attempt to investigate and rectify violations of laws; thirdly promote supervision platform building. It is necessary to construct a comprehensive supervision platform of the digital application function, which is based on the land examination and approval, supply, use, compensation and investigation to realize national land and resources use information share and “whole-procedure supervision”.

4.3 Complete and fulfill law enforcement supervision joint responsibility mechanism

Firstly give full play to the role of the government. Fulfill arable land protection joint responsibility mechanism, strengthen communication and coordination with local governments, adopt constraints and incentives at the same time, give the leading role of governments in land administration especially arable land protection into full play; secondly reinforce internal exam & approval supervision. Complete and fulfill the system for law-enforcing institutions to get involved in internal trial and major matter collective decision-making system, implement one-vote veto, and form effective internal supervision and restricting mechanism; thirdly fulfill horizontal department linkage. Fulfill the coordinated mechanism to investigate national land and resources law violations and crime cases, and strengthen the cooperation with discipline inspection and supervision, public security, court, procuratorate and other authorities to crack down violations and crimes concerning national land and resources.

4.4 Establish and complete law enforcement supervision and guarantee mechanism

Firstly seek for higher level support for law enforcement work. Try to advance the provincial law enforcement supervision work into local regulations, rules or normative documents of provincial committee and provincial governments, and seek for powerful basis and support from policies and stipulations so as to advance law enforcement comprehensively. Secondly promote complete staffing. Increase the headcounts, allocate capable staffs, make functions clear, strive to get support from all sides, and realize capable staff allocation adjustment of national land and resources law enforcement supervision institutions; thirdly improve law enforcement working conditions. Improve case handling equipment necessary for law enforcement, such as special vehicles and telecommunication tools, and explore to build personal insurance and accident insurance system; fourthly complete and fulfill law enforcement supervision and incentive mechanism. Build a special incentive fund for law enforcement supervision, and actively improve law enforcement enthusiasm and initiative.

4.5 Build and complete law enforcement accountability mechanism

Firstly build and complete case investigation responsibility system. Build the land law enforcement misjudged case accountability system, and regulate case investigation behaviors of law enforcement personnel. Build the system in which the top leader of local national land and resources administrative department as the case investigation first person responsible system, to improve the case thorough investigation rate; secondly fulfill law enforcement and supervision responsibly system. Pursuant to “Punishment Methods for Violations of Land Administrative Regulations”, and strictly fulfill joint
responsibility of local governments and national land and resources department in national land and resources supervision; thirdly reinforce law enforcement work assessment supervision. Have land law enforcement as important indexes and basis for national land and resources management objectives responsibility assessment, increase the proportions, and implement strict assessment. Explore and build land law enforcement objective assessment methods, and directly link assessment results with units’ best and advanced staff assessment and cadre appointment, so as to boost law enforcement staffs’ resolution and confidence to address challenges initially.

5. Summary

To sum up, the plight of land law enforcement of Yunnan Province includes legal factors, administrative factors, policy factors, law enforcement capacity factors, etc. So, the key to solve the dilemma of land law enforcement of Yunnan Province lies in the government's emphasis, determination and measures.

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