

Transformation of Property Rights in China

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In neo-classical economics, it is widely believed that well-defined and enforced property rights are the precondition for economic prosperity. Such rights reduce transaction costs, and, by giving the enterprise owner an assured claim on the residual, motivate efficient management of the enterprise, benefiting the economy as a whole. If this perspective is correct, a socialist economy attempting to modernize would benefit by a rapid transfer of state property into private hands. But this has not happened in China, even though other reforms have significantly changed its economy. And yet China's economy has seen astounding growth. China's transition away from a state-owned command economy has been, and will continue to be, gradual and full of contradictions.

Field of Research: Property Rights, Economies, China

1. Introduction

Feudal China gradually changed after 1840 to a semi-colonial and semi-feudal country. A century later, the Communist Party of China, with Chairman Mao Zedong as its leader, led a struggle for national independence and liberation. In 1949 the People's Republic of China was founded, with Marxism as its liberation ideology. Karl Marx had argued in the *Communist Manifesto* that "modern bourgeois private property is the final and most complete expression of the system of producing and appropriating products that is based on class antagonism, on the exploitation of the many by the few." To end this exploitation, the goal of class struggle is the "abolition of private property." Thus, from 1949 to 1976, the Communist Party completely abolished private property. Almost all property belonged to the State. Mao died in 1976, and later leaders decided to allow private property to emerge. When the economy was opened in 1978, most of the Chinese people were still poor. But if there were suddenly a transfer of public property to private, who would own the property? Thus, instead of an immediate transfer of social property to private, the leadership chose an ambiguous and vague process.

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2. Literature Review

Theory tells us that private property rights can improve living standard in China and decrease the income inequality. Sure, property rights and freedom of speech are good for human long term process. But how to arrive to this target, China needs “shock therapy” or “graduate transformation?” That is the main problem and dispute inside China. We think “graduate transformation” is better for China. At the beginning of the reform, they have a lot of people below the lower standard level. “Shock therapy” maybe makes the country separate and even possible the war between different regions.

3. Methodology and Research Design

The research aimed to investigate answer the following question: What is China’s path toward privatization? We suggest this description of what is happening in China today:

- A. Instead of rapidly and openly transferring property rights from public to private, China’s transfer of property rights has been purposely ambiguous and vague.
- B. China has made distinctions in which ownership by foreign nationals is treated differently from local ownership.
- C. China chose to allow corruption during its transition to private ownership. Despite the obvious costs, there have been some economic benefits from this approach.
- D. “Signal left but turns right:” State-owned (“socialist”) enterprises in China function like capitalist enterprises.
- E. Property privatization will be completed in 2030s.

4. China’s Property Rights Transfer Has Been Ambiguous and Vague

The process of transferring social property to private is shaking the Communist Party and the country, destabilizing social relations. This instability creates a serious risk. For security reasons, then, the Communist Party of China has chosen a less direct and sudden path for the transition. Property rights can be separated into user rights (*usufruct*) and seller rights. Separation of these components of property rights can be seen as a major characteristic of China’s economic reform. This creates a major ambiguity, especially as applied to land and buildings which stand on the land. The Constitution states very clearly that all land belong to the state. But Article 2 of the Law of Real Estate says that anyone can obtain land-use rights to develop real estate, and that this land-use right can be transferred. This distinction leads to complex and ambiguous “ownership.” For example, houses can be bought and sold. But for many of the Chinese families I have visited, permanent certificates of *ownership* and 30-year certificates of *right of land use* are held by different people! Some families only have the first certificate. Some have neither certificate, but had paid some money to “buy” the house; this is called an “implicit contract.” I asked the families with no permanent certificates what they expect to happen

at the end of 30 years; apparently, nobody thinks about this question. But I told them that I wanted to get some ideas from them. The answer is usually the same: "I can sell my house before the end of the day, because I am the owner of the house. Currently, we do sell our house in this way; we never need to know the land-use right. It is useless." For further understanding of this ambiguity of ownership, I visited some other officials in China. I investigated two very interesting cases.

5. One country, two systems: foreign and local ownership.

A Chinese-American professor at Columbia University bought a house in Hubei province 25 years ago. He has clearly been the owner of the house since that time. But according to the Constitution, the *land* belongs to the state. Recently, the local government announced plans to take his house. I asked one of the officials about this: "if in the future the government takes *your* house, would you think it fair?" The answer was: "This is different. First, he is a foreigner, and the land belongs to the state; we are Chinese, and the state means the Chinese people. Second, he is rich and he has enough money. Even though we are taking his house, he still has enough money to purchase other houses." Then I asked another question: "Can he destroy his house and sell the bricks?" "Sure, he is the owner of the house!" the official answered quickly.

Another interesting case is that of one of my closest relatives. He retired 10 years ago, and paid some money to "buy" his apartment, but he has no documentation. The seller (one of the officials) has since died. Recently, the land and the location became very popular. A businessman has offered to buy land-use rights for 30 years from a local official. Does the businessman have the right to displace all of the people who have no certificates but who have lived here for more than 10 years? This is happening all over China. But every complex problem has a wonderful solution in China. The businessman, the apartment representative, and the official set up a meeting. The official promises to give a use certificate to each current resident, and the businessman will pay a very low price to buy the land. He will build a new, higher building; then he will give each family an apartment the same size as they now have. No doubt the official will get some money from the businessman. Everybody will be very happy except one new neighbor who just bought one apartment and decorated it. The cost, of course, is the alienation of the land, selling the whole people's land to "the building people."

6. China chose to allow corruption during this transition, expecting it to have a net positive effect on the economy

As expressed by Chairman Deng Xiaoping, the transition has been governed in part by the theory that when the economy is managed by bureaucrats who do not have a financial stake in its performance, an economy of shortage results. But when the self-interests of bureaucrats are closely tied to the market, it may lead to substantial growth. As Deng has said, "If you need fresh air, you must open your window, but at the same time flies will

come in.” What Deng seems to be saying is that the Chinese people want reform, and need party members and officials to do the detail work of guiding this reform—but that corruption will therefore be a necessary piece of the process? There is a traditional Chinese saying that “if the water is too clear, no fish can survive.” But the expectation is that we will improve our legal system and overcome corruption step by step. While socialism, according to Marx and Mao, requires the abolition of private property, China seems to be moving toward privatization of property, while still calling itself “socialist.” The biggest problem for this phase of the transition is developing a price system. For historical reason, we have no idea how to set a price for the right of land use. Thus there is the danger that officials will sell state assets to private interests at too low a price, providing more opportunity for corruption.

7. “Signal left but turns right:” socialism with Chinese characteristics is more like capitalism.

Even during Mao’s tenure, despite its rhetoric, China has never really followed Marx’s theory. Marx maintained that socialist revolution would take place in countries that had already gone through the capitalist stage of development and produced a majority proletarian class; the proletariat would carry out the revolutionary transformation of society into a socialist country and communist world. But China’s majority of workers are still peasants, not industrial workers. Deng Xiaoping has said that “the fundamental difference between socialism and capitalism is: socialism is to emancipate and develop the productive forces.” To us this sounds like capitalism, totally different from Marx’s concept of socialism. We call this “Socialism with Chinese Characteristics.” Currently, Deng’s theory is the most important theory in China. It has already been put in the Communist Party Constitution.

8. Property privatization will be completed in 2030s

Based on our research into the case of the Chinese-American professor, We can say that the Party’s plan is to complete property privatization by 2030s. Public ownership of the land but private ownership of buildings is now the basic contradiction in property rights in China. Most land-use rights today have been assigned for 30 years, so the contradiction is not a very big problem at the current time. But after about 30 years, as the majority of land-use contracts end, it will become the biggest problem in China. The fight between state ownership of the land and private ownership of buildings will completely change people’s ideas about “private property.” Just as the abolition of slavery needed time in the United States, so will the privatization of property in China. The latest Communist Party Meeting said that “We should improve the legal system for protecting private property.” As in the fourth amendment to the United States Constitution, the Party expressed its intention to protect private property from governmental takings. At the same time, China has published a lot of laws regarding the protection of private property. The fundamental problem is that if

the land is private, can we still say this is a socialist country? But this issue may not be a problem for the next generation; they will not care as long as “socialism with Chinese Characteristics” improves their living standards.

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