Land and Property Rights in the Free China Transition: Resolving the 1982 Use-Rights Regime

Free China Movement

How the 1982 use-rights regime was built, why its terms are expiring, and how a democratic transition can convert use rights into ownership without confiscation or capture.

I. THE 1982 SETTLEMENT: HOW THE USE-RIGHTS REGIME WAS BUILT

Almost every family in the PRC (Mainland) that owns a flat owns something less than the ground beneath it. What it holds is a building, or a share of one, together with a right to use state land for a period of years. The land itself belongs to the state in the cities and to rural collectives in the countryside. This arrangement is not an accident of the market era. It was written into the 1982 Constitution, opened to commerce by a constitutional amendment in 1988, given a term structure by State Council regulations in 1990, and then filled with private wealth by the housing reforms of the 1990s. Any serious proposal to turn China's property holders into owners has to start by taking that structure apart in the order in which it was built.

1. The constitutional division: state land and collective land

The 1982 Constitution divides land into two ownership classes. Article 10, in the English text of the original 1982 instrument, reads:

"Land in the cities is owned by the state. Land in the rural and suburban areas is owned by collectives except for those portions which belong to the state in accordance with the law; house sites and private plots of cropland and hilly land are also owned by collectives. The state may in the public interest take over land for its use in accordance with the law. No organization or individual may appropriate, buy, sell or lease land, or unlawfully transfer land in other ways. All organizations and individuals who use land must make rational use of the land." (1982 original, English text)

> Article 9 places mineral resources, waters, forests, mountains, grasslands, unreclaimed land and beaches in state ownership, "that is, ownership by the whole people", except for forests, mountains, grasslands, unreclaimed land and beaches that the law assigns to collectives. (current text, art. 9)
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> Three features of the 1982 text matter for everything that follows.
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> First, the division is categorical. Urban land is state land, without qualification. Rural and suburban land is collective land unless a statute says otherwise. House sites (宅基地) and private plots are expressly collective. There is no third category of private land.
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> Second, the original text did not merely forbid the sale of land. It forbade leasing it. The 1982 wording of the fourth paragraph — preserved verbatim in the 1988 amendment that later changed it — was 「任何组织或者个人不得侵占、买卖、出租或者以其他形式非法转让土地。」 ("No organization or individual may appropriate, buy, sell or lease land, or otherwise unlawfully transfer land.") As adopted, the Constitution left no lawful room for a land market of any kind.
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> Third, the 1982 taking power came without a compensation clause. The state could "take over land for its use in accordance with the law". The duty to compensate entered the constitutional text only

later, by amendment; the current Article 10 reads 「国家为了公共利益的需要，可以依照法律规定对土地实行征收或者征用并给予补偿。」 ("The state may, for the needs of the public interest and in accordance with the law, expropriate or requisition land and give compensation.") (current text). For the transition, the absence of a compensation duty in the original settlement is not an antiquarian point. It describes the legal position under which much of today's urban land was acquired from collectives.

A distinction runs underneath all of this and must be kept in view throughout the paper. Ownership of land is one thing; ownership of what stands on it, and of the right to use it, is another. Chinese law has long treated buildings and use rights as property that individuals can hold, sell, mortgage and inherit, while the land beneath remains state or collective. The Free China question is therefore not whether Chinese households own anything. They do. It is whether what they own can be completed into ownership of the land.

2. 1988: the amendment that made use rights transferable

On 12 April 1988 the First Session of the Seventh National People's Congress adopted two constitutional amendments. Article 1 recognised the private economy. Article 2 rewrote the land paragraph:

「宪法第十条第四款：'任何组织或者个人不得侵占、买卖、出租或者以其他形式非法转让土地。'修改为：'任何组织或者个人不得侵占、买卖或者以其他形式非法转让土地。土地的使用权可以依照法律的规定转让。'」

Two changes were made, and both were small in wording. The

word 出租 ("lease") was deleted from the list of prohibited acts, and a new sentence was added: "The right to use land may be transferred in accordance with the law." Ownership stayed where it was. The sale of land itself remained unlawful.

What the amendment did not do is as important as what it did. It set no term of years. It did not say how use rights would be created, priced or renewed. It delegated all of that to "the law". The familiar 70-, 50- and 40-year figures are not constitutional. They came two years later, from the State Council.

3. 1990: the regulations that created the term structure

The Interim Regulations on the Grant and Transfer of Urban State-Owned Land Use Rights (城镇国有土地使用权出让和转让暂行条例) were promulgated by State Council Order No. 55 on 19 May 1990. They are the operating manual of the urban land market. Article 2 states the governing principle:

「国家按照所有权与使用权分离的原则，实行城镇国有土地使用权出让、转让制度，但地下资源、埋藏物和市政公用设施除外。」 ("On the principle of separating ownership from the right of use, the state applies a system of granting and transferring the right to use urban state-owned land, except for subsurface resources, buried objects and municipal public facilities.")

Article 8 defines the grant (出让) as the state, acting "in its capacity as owner of the land", conferring a use right for a fixed number of years in exchange for a grant fee (出让金) paid by the user, and requires a grant contract to be signed. Article 11 provides that the contract is concluded, on the principles of equality, voluntariness and consideration, between the municipal or county people's

government land administration department and the land user. The state is thus both the sovereign that regulates land and the landlord that sells time on it.

Article 12 sets the maximum terms:

- Residential land — 70 years
- Industrial land — 50 years
- Education, science and technology, culture, public health and sports — 50 years
- Commercial, tourism and recreation — 40 years
- Comprehensive or other uses — 50 years

(Art. 12: 「土地使用权出让最高年限按下列用途确定」)

The operative word is 最高, "maximum". The schedule is a ceiling, not a rule that every residential grant runs seventy years. Local governments could and did sell shorter terms. That is how Wenzhou came to have 20-year residential grants, discussed in Section II. Any account of the "expiry wall" that assumes every flat sits on a 70-year grant dated from the building's completion will misstate both the timing and the scale of the problem.

The same regulations also state what happens at the end of a term, and here they set up the central legal tension of this paper. Article 40 provides that on expiry "the land use right and the ownership of the buildings and other attachments on the land are acquired by the state without compensation" (由国家无偿取得). Article 41 allows the user to apply for renewal, but renewal requires a new contract, payment of a new grant fee, and registration (arts. 40–41). Read on their own terms, the 1990 regulations make urban property in China a long lease whose reversion — land and building alike — falls to the state for nothing unless the holder pays again.

4. Housing reform: how a lease regime became a nation of homeowners

For most of the PRC's first four decades, urban housing was not bought. It was allocated, chiefly through the work unit (单位), at low rents. The reforms of the 1990s converted that allocated stock into privately held flats and replaced allocation with a commercial housing market.

The legal starting point is the State Council's Decision on Deepening Urban Housing System Reform of 18 July 1994 (国发〔1994〕43 号). The decisive step followed in 1998, when the State Council ordered an end to the in-kind allocation of housing (国发〔1998〕23 号). Its local implementing instruments show the mechanism plainly. Chongqing's implementing notice, for example, directed that from 31 December 1998 all Party and government organs, mass organisations, enterprises and institutions in the municipality's urban and industrial areas "stop investing in purchasing or building housing for in-kind allocation" (停止投资购建住房用于实物分配). (Chongqing implementing notice, 渝府发〔1999〕10 号)

Occupants were allowed to buy the flats they lived in, typically at prices set well below market value. The result was a transfer of the urban housing stock from public into private hands on a very large scale. This paper describes it as China's largest quiet privatisation. That is an analytical characterisation, not an official one, and it should be read as such. Two features make it quiet. It happened household by household, through work units rather than through a national auction. And it transferred buildings and use rights, not land, so it left the 1982 ownership structure formally untouched.

For the transition, the housing reforms raise a question that will recur. The flats were acquired lawfully, under the rules then in force, and in most cases they have since been lived in, improved, inherited, mortgaged and resold. But the original allocation was

not neutral. Access depended on employment in the state sector and on urban registration. The households that bought at discount were, disproportionately, those already inside the urban system. Whether, and how, a new settlement should take account of that history is a question of justice that the lawfulness of the original purchase does not answer. Section VI returns to it.

5. The rural pathway: collective ownership, household rights

Rural land followed a different track. It remained collective. Households received not use rights for a term of years bought from the state, but contractual management rights over farmland allocated by their collective, and separately, rights to house sites.

The Law on Land Contract in Rural Areas, adopted in 2002 and since amended, frames contracted farmland as a set of distinct legal positions: ownership by the collective; household contracting; the contractual management right held by the household; and the circulation of qualifying rights without any transfer of the underlying ownership. The Property Law of 2007 and, since 1 January 2021, the Civil Code classify the contracted-land right and the homestead right as separate usufructuary rights (Civil Code, arts. 330–343 and 362–365).

These are different institutions and the paper treats them separately. Contracted farmland is an agricultural management right. The homestead is a right to occupy collectively owned land in order to build a family home. A rural household may hold both, one, or — after migration — neither in practice while retaining a claim to them in law. A settlement that merges them into a single category of "rural land" will misallocate both.

6. Hukou and membership: who counts as an owner-in-waiting

Rural land rights are attached not to residence alone but to

membership of a collective economic organisation. Membership in turn has been bound up with household registration (户口). The household-registration system separated urban from rural residents and governed access to urban employment, housing and social benefits.

It would be a mistake to treat hukou as the single key to rural property. Collective membership is determined by a mix of statute, historical allocation, household succession and village rules. Marriage, divorce, migration and conversion to urban registration have each, in different places and periods, cost people their collective entitlement or left it in suspense. For hundreds of millions of people who have moved to cities, the question "who owns the village?" has no single legal answer. The transition will need one.

7. Land finance: the state as regulator and seller

The final layer was fiscal. Because the state owns urban land and sells time on it for a fee, local governments came to depend on land conveyance as a source of revenue. The mechanism is built into the 1990 regulations: the grant fee is paid to the state as owner. Local governments control the conversion of collective land into state land, the supply of urban land to the market, and the price at which it is sold. Revenue from conveyance has financed infrastructure, urban expansion and the borrowing of local-government financing vehicles.

The institutional problem is clear even before the figures are assembled. A government that is both the regulator of land use and the principal seller of land has a standing incentive to acquire rural land cheaply, sell urban use rights dearly, and keep terms short enough to sell again. That incentive is the hidden third party in every discussion of renewal fees. When the question is asked

"what should a homeowner pay to renew?", the answer has always been shaped by the fact that the party setting the price is the party that collects it.

The 1982 settlement, then, was built in five layers: a constitutional division of land between state and collective; a 1988 opening that made use rights tradable while keeping land itself off the market; a 1990 term structure with reversion to the state; a privatisation of housing that put those use rights into private hands; and a fiscal system that made local government dependent on selling them. The next section turns to the moment when the first of those terms run out.

II. THE COMING EXPIRY WALL: THE LEGAL AND MORAL PROBLEM

The phrase "expiry wall" suggests a single date on which seventy-year leases across China run out together. There is no such date. What exists instead is a staggered series of expiries across different land categories, granted on different terms in different years by different local governments, with incomplete records and an unresolved rule on what renewal costs. The problem is systemic rather than chronological. A defensible transition must protect the people who live in this stock without pretending that every historical claim to land is of equal weight, and without reviving every title that existed before 1949.

1. Where the terms come from, and why they are uneven

The term structure belongs to Article 12 of the 1990 Interim Regulations, not to the Constitution or the 1988 amendment (art. 12). Article 12 sets maximum periods — seventy years for residential land, fifty for industrial and most public-service uses, forty for commercial, tourism and recreational land, fifty for

comprehensive or other uses. Because these are ceilings, the actual remaining term of any parcel depends on its own grant contract: when it was granted, for what use, for how long, and whether it has since been renewed, re-zoned or re-granted.

Three consequences follow. First, the earliest expiries fall not in the 2060s, seventy years after the 1990 regulations, but much sooner, wherever local governments granted short residential terms. Second, commercial and mixed-use grants at forty or fifty years will reach their ends before residential grants of the same vintage. Third, nobody outside the land administration can presently say how much of the stock expires when, because the necessary parcel-level data — original grant year, term and use — has not been published as a national series.

2. Wenzhou: the first expiries

The problem became national news in April 2016, when owners in Wenzhou, Zhejiang Province, found that the residential land-use rights under their homes had expired after twenty years (press reports, December 2016).

The short terms were not an error. In the 1990s Wenzhou allowed purchasers to choose a grant term in tiers from twenty to seventy years, within the seventy-year residential maximum, and to pay the corresponding grant fee: 「在不超过居住用地最高年限 70 年的前提下，按 20 年到 70 年分档，由受让方自行选择办理出让手续」. Press reports put the number of affected parcels or units in Lucheng District alone at more than six hundred. Owners were told, according to the same reports, that renewal would require a new grant fee of roughly one-third of the value of the home (「必须缴纳占房价总额约三分之一的土地出让金」) (press reports).

The fee figure is what turned a local dispute into a national one.

Under the 1990 regulations the local government's demand was, on its face, lawful: renewal required a new contract and a new grant fee (art. 41). For owners it meant paying again, at today's land prices, for a home they believed they had bought.

The central response came in two steps.

The first was a policy statement. On 4 November 2016 the CPC Central Committee and the State Council issued an Opinion on Improving the Property Rights Protection System in Accordance with Law, published on 27 November. Its only sentence on land-use terms appears in section 十, on increasing household property income:

「研究住宅建设用地等土地使用权到期后续期的法律安排，推动形成全社会对公民财产长久受保护的良好和稳定预期。」 ("Study the legal arrangements for renewal after the expiry of residential construction land and other land-use rights, and promote the formation of a good and stable expectation throughout society that citizens' property will be protected for the long term.") (2016 Opinion, section 10)

The sentence is a commitment to study, not a rule. It promises stable expectations of long-term protection; it does not say what renewal will cost.

The second was an administrative letter. On 8 December 2016 the General Office of the Ministry of Land and Resources replied to the Zhejiang provincial land department in 《国土资源部办公厅关于妥善处理少数住宅建设用地使用权到期问题的复函》(国土资厅函〔2016〕1712 号), issued with the agreement of the Ministry of Housing and Urban-Rural Development. It described itself as

transitional — applying 「在尚未对住宅建设用地等土地使用权到期后续期作出法律安排前」, "before a legal arrangement has been made" for renewal — and set out three points, later summarised as "two no's and one normal" (两不一正常):

「一、不需要提出续期申请。……二、不收取费用。……三、正常办理交易和登记手续。」 ("1. No application for renewal is required. 2. No fee is charged. 3. Transactions and registration proceed normally.")

On the register, the original start and expiry dates were to remain, annotated with a reference to the letter.

The letter resolved Wenzhou's immediate crisis and nothing else. It was addressed to one province. It spoke of 少数, "a small number" of expiries. It was expressly interim. It kept the original expiry dates on the record, so that the legal term of the right was neither extended nor abolished. And it rested its authority on a rule that already existed: Article 149 of the 2007 Property Law, which it quoted as providing that residential construction-land use rights "automatically renew upon expiry" (「住宅建设用地使用权期间届满的，自动续期」) (Property Law, art. 149, as quoted in the letter). Automatic renewal, in other words, did not begin with the Civil Code. It had been law since 2007, and what it meant in money had been left unanswered for nine years before Wenzhou forced the question.

3. Civil Code Article 359: automatic renewal, unresolved price

The Civil Code, adopted on 28 May 2020 and in force from 1 January 2021, carried the rule forward. Article 359 reads in full:

「住宅建设用地使用权期限届满的，自动续期。续期费用的缴纳或者减免，依照法律、行政法规的规定办理。
非住宅建设用地使用权期限届满后的续期，依照法律规定办理。该土地上的房屋以及其他不动产的归属，有约定的，按照约定；没有约定或者约定不明确的，依照法律、行政法规的规定办理。」 (Civil Code, art. 359)

("Where the term of a residential construction-land use right expires, it is automatically renewed. Payment, reduction or exemption of renewal fees shall be handled in accordance with laws and administrative regulations.
Renewal after the expiry of a non-residential construction-land use right shall be handled in accordance with law. The ownership of buildings and other immovable property on that land shall follow the agreement where there is one; where there is no agreement or the agreement is unclear, it shall be handled in accordance with laws and administrative regulations.")

> The first paragraph contains two propositions that should never be run together. Residential rights renew automatically. Whether renewal costs anything is left to future laws and administrative regulations. The Code therefore settles continuity of possession and leaves the price open. Automatic renewal is not the same thing as ownership: the land remains the state's, and the right remains a right of use, now without a fixed end point but with an undetermined charge attached.
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> The second paragraph treats non-residential land quite differently. Renewal of commercial and industrial rights is left to "law" alone, and the fate of the buildings on expired non-residential land is left first to contract and then to law. Commercial and industrial holders therefore have no statutory assurance of automatic renewal at all.

4. Two texts in tension

Article 359 now sits on top of the 1990 regulations, and the two do not agree. Under Article 40 of the regulations, the use right and the buildings revert to the state without compensation at expiry. Under Article 41, renewal requires an application, a new contract and a new grant fee. Under Article 359 of the Code, residential renewal happens automatically, without an application, and the fee is left to law that has not been written.

The ordinary rules of Chinese legal hierarchy point towards the Code prevailing for residential land: it is a later enactment of the National People's Congress, while the regulations are an earlier instrument of the State Council. But the regulations remain listed as in force, and their provisions on non-residential land, on reversion of buildings, and on the fee mechanism have not been displaced by any statute that answers the question Article 359 deferred. The legal position of a residential owner today is therefore better than the 1990 text suggests and less secure than "automatic renewal" implies. The price of the future is still unset, and the party that will set it is the party that collects it.

5. Commercial and industrial land

Because Article 359 treats non-residential land separately, the transition cannot extend a homeowner settlement to shops, offices and factories by analogy. Those rights were bought on shorter terms, often by firms rather than households, frequently as investments, and in many cases with land prices that already reflected the term. Their holders' reliance interest is real but of a different kind. Section VI proposes that they be settled on separate terms, with continuity of use protected but conversion to ownership priced.

6. Rural land: homesteads and contracted farmland

The expiry problem is an urban one, but the rural system has its own version of uncertainty. The homestead right is a right to possess and use collectively owned land in order to build a residence (Civil Code, arts. 362–365). Contracted farmland is held under contractual management rights that run for statutory periods and are subject to extension (arts. 330–343). Neither confers ownership of the land.

A rural settlement will have to deal with at least six categories of claim: homestead allocations tied to collective membership; inherited homesteads, including those of heirs who no longer live in the village; vacant, abandoned and unregistered homesteads; the homesteads of rural residents who have moved to cities; contract extensions on farmland; and households that have already transferred or surrendered part of their interests. The Land Administration Law frames the homestead in those membership terms: one homestead per household, within area standards set by the province, township approval of residential land, and no new homestead for a household that has sold, rented out or given away its house (art. 62). Each category requires its own rule. None is answered by Article 359.

7. Pre-1949 titles: why old deeds cannot simply revive

A transition that speaks of restoring property will be asked about the property that existed before the People's Republic. Families still hold deeds, or memories of deeds, to land confiscated in the land reform of the early 1950s and in later campaigns.

The 1950 Agrarian Reform Law of the Central People's Government abolished the landlord system of land ownership and provided for the confiscation and redistribution of specified property (arts. 1, 7, 10). Whatever one concludes about the justice of particular

confiscations — and many were carried out with great violence, as the scholarly record of the land reform campaigns documents (Dikötter, *The Tragedy of Liberation* (2013)) — the legal and physical world they produced has since been transformed. Land has been redistributed, collectivised, re-allocated to households, expropriated for cities, built on, sold in use-right form and resold. The household that today occupies a city flat built in the 1990s on land confiscated in the early 1950s did not take that land from anyone.

An old deed is therefore not, by itself, a sufficient basis for a present claim against an innocent current occupant. Justice for historical confiscation is owed, but it cannot be delivered by reinstating the 1949 register. The paper distinguishes:

- identifiable property confiscated without lawful process, where the original property still exists in recognisable form;
- politically targeted confiscations, where the wrong lay in persecution as well as in taking;
- property that has since passed through transfers to innocent purchasers;
- property that has been physically or legally transformed beyond recognition;
- claims by descendants of former owners that compete with the claims of present users.

Restitution in kind is defensible, if at all, only in the first category and only where it does not displace a present occupant who acquired in good faith. In the others, the appropriate remedy is compensation, acknowledgement, or both. Section V examines how Germany's restitution-first principle worked in practice and what it cost, and Section VI proposes a compensation-first rule for China.

8. The shape of the problem

Put together, the expiry wall is four problems, not one. There is an urban residential problem, in which possession is now continuous by statute but the price of renewal is unset and the land remains the state's. There is a non-residential problem, in which neither continuity nor price is assured. There is a rural problem, in which the rights in question are tied to collective membership rather than to a purchased term. And there is a historical problem, in which claims older than the regime itself must be answered without unsettling the homes of people who did nothing wrong.

The transition's task is to convert the first into ownership, settle the second on fair commercial terms, give the third a legal answer to the question of who belongs, and meet the fourth with compensation rather than eviction. The next three sections ask how other societies — the United States, the ROC (Taiwan), and the post-communist states of Europe and Asia — dealt with property stocks whose origins were as mixed as China's.

III. THE AMERICAN MIRROR: PROPERTY STOCK, HISTORICAL INJUSTICE AND TITLE STABILISATION

Critics of a Free China property settlement will say that the PRC (Mainland) use-rights stock is tainted at its root: built on confiscation, allocated by privilege, and sold by a state that set its own prices. All of that is partly true. But no modern private-property system began from a clean foundation. The United States, often held up as the model of secure private title, assembled its property stock through lawful purchase and public grant, and also through treaty-making that was later broken, the removal of whole nations, the loss of land guaranteed by treaty, and wealth built on the ownership of human beings. What made American titles secure

was not the purity of their origins. It was a body of law that decided, case by case and statute by statute, which old claims would be heard and which would be closed. The American lesson for China is that title stabilisation and historical justice are related problems, but different ones, and a transition that confuses them will fail at both.

1. Lawful channels: how most of the stock was created

The ordinary channels through which American land passed into private hands were purchase and conveyance between private parties, the disposal of public land by the federal and state governments, grants to railroads, states and institutions, settlement programmes, and inheritance. The best known of these is the Homestead Act of 20 May 1862. Under it, in the National Archives' summary, "any adult citizen, or intended citizen, who had never borne arms against the U.S. government could claim 160 acres of surveyed government land". Title followed occupation and work: "After five years on the land, the original filer was entitled to the property, free and clear, except for a small registration fee." Section 2 of the Act set that fee at ten dollars (National Archives transcript).

The Homestead Act matters to the Chinese case for two reasons. First, it is a precedent for converting state-held land into private ownership on a nominal payment, conditioned on residence and use rather than on market price. That is close to what Section VI will propose for primary residences in the PRC (Mainland). Second, it is a warning against treating any single programme as the whole story. The same National Archives page records that "of some 500 million acres dispersed by the General Land Office between 1862 and 1904, only 80 million acres went to homesteaders". Most public land left federal hands through sales, grants and other channels,

many of which were open to speculation and to large holders. A conversion programme is shaped as much by the channels that run beside it as by its own terms.

2. Native dispossession: when lawful form does not confer legitimacy

The United States treated Native nations as parties capable of making treaties, and it made many of them. The National Archives holds the ratified treaty texts. Many of those treaties ceded land in exchange for promises — of reserved territory, payment, protection or services — that were later broken. Others were obtained under pressure, or were followed within years by removal. The Indian Removal Act of 28 May 1830 authorised the President to exchange lands west of the Mississippi for Native lands within the existing states, and its implementation led to the forced removal of nations from the Southeast.

For the purposes of this paper, the point is analytical, not rhetorical. American law produced a large stock of title that is formally lawful — conveyed by treaty, patent and deed — and that rests in part on transactions which few today would defend as just. The categories have to be kept apart: a cession freely negotiated and honoured; a cession later violated; removal by force; agreements never ratified; the breaking up of reservation land into individual allotments; and modern claims and settlements. Each raises a different question and has received a different legal answer. What American law did not do was reopen every title derived from a cession. Where it has offered remedies, those remedies have more often taken the form of money, recognition or the return of specific public land than the eviction of present private owners. The Indian Claims Commission, created by Congress in 1946 to hear tribal claims arising before that year, is the standing example: it could award money, including for treaty

violations and for land taken at unconscionable prices, but it had no power to return land; claims not filed within five years were forever barred; and by the time it closed in 1978 it had awarded more than $800 million.

3. The Mexican cession: protection promised and protection delivered

The 1848 Treaty of Guadalupe Hidalgo transferred a vast territory from Mexico to the United States. It also contained explicit promises about private property within that territory. Article VIII provides:

"In the said territories, property of every kind, now belonging to Mexicans not established there, shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract, shall enjoy with respect to it guarantees equally ample as if the same belonged to citizens of the United States." (art. VIII)

Article IX provided that Mexicans who did not retain Mexican citizenship would be incorporated into the Union and, in the meantime, "shall be maintained and protected in the free enjoyment of their liberty and property" (art. IX).

Article X, which in the treaty as signed addressed Mexican land grants specifically, was struck before ratification and does not appear in the treaty as ratified; the instrument records that ratification was advised by the Senate "with amendments" on 10 March 1848.

The case is useful precisely because the promise of Article VIII was real and in force. The security of individual grant-holders nevertheless came to depend on what followed: the procedures by

which the new sovereign required old grants to be proved, the cost and length of that proof, and the evidence it would accept. A guarantee in a founding text, in other words, was only as strong as the confirmation process that implemented it. The parallel for China is direct. Article 359 of the Civil Code promises automatic renewal. Whether that promise protects households will depend on the fee rules, registration practice and proof requirements that implement it.

4. Slavery: emancipation without restitution

Under American law before 1865, enslaved people were treated as property, and much wealth — in land, in crops, in credit — was built on their forced labour. The Thirteenth Amendment, ratified on 6 December 1865, abolished the institution:

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." (Thirteenth Amendment, s. 1)

Abolition ended the legal category. It did not redistribute what had been accumulated under it. The nearest the federal government came to a land remedy was military and temporary. On 16 January 1865 General William T. Sherman issued Special Field Orders No. 15 at Savannah, which reserved "the islands from Charleston, south, the abandoned rice fields along the rivers for thirty miles back from the sea, and the country bordering the St. Johns river, Florida ... for the settlement of the negroes now made free by the acts of war and the proclamation of the President", with each family to have "a plot of not more than (40) forty acres of tillable ground". Within the year federal policy restored most such land to

its former owners: the Freedmen's Bureau's Circular No. 15 of 12 September 1865 laid down the rules under which Bureau-held property was restored to owners who proved their title and received a presidential pardon.

This paper does not argue that present American titles are void because of slavery-era accumulation. They are not, and no serious remedial proposal requires that they be. The argument is narrower. A legal order can end an injustice, decline to remedy its distributional consequences, and still go on to produce titles that are stable, marketable and inherited. Whether that outcome is morally acceptable is a separate question from whether it is legally secure. The Free China settlement must answer both questions, and must not pretend that answering the second answers the first.

5. Eminent domain: when the state's development priorities come first

The Fifth Amendment allows private property to be taken for "public use", with just compensation. In Kelo v. City of New London, 545 U.S. 469 (2005), the Supreme Court held by five votes to four that "the city's proposed disposition of petitioners' property qualifies as a 'public use' within the meaning of the Takings Clause", where the taking served a planned economic-development project (syllabus). Justice Stevens wrote for the Court. Justice O'Connor, dissenting for four Justices, warned:

"Any property may now be taken for the benefit of another private party, but the fallout from this decision will not be random." (O'Connor J., dissenting)

The relevance to China is obvious and should be stated plainly. The PRC (Mainland) system already allows land to be taken "for the needs of the public interest" (Section I.1), and local governments

that sell land have every incentive to read "public interest" broadly. Kelo shows that even a mature property-rights system with an independent judiciary can allow development priorities to override individual ownership. A Free China constitution that merely copies a public-use clause, without defining it narrowly and without independent review, will import the problem it is meant to solve.

6. How American titles were stabilised

The American system does not make old titles secure by proving that every link in the chain was just. It makes them secure by limiting how long, and on what basis, a title can be challenged. Several distinct mechanisms do this work, and they are not interchangeable:

- Recording systems give public notice of conveyances and set priorities between competing claimants.
- Bona fide purchaser rules protect a buyer who pays value without notice of an earlier defect.
- Statutes of limitation bar claims that are not brought within a fixed time.
- Adverse possession allows a possessor who meets statutory conditions — typically open, continuous and exclusive possession for a set number of years — to acquire title against the record owner.
- Marketable-title acts, in the states that have them, extinguish many older interests that are not re-recorded within a set period.
- Quiet-title actions allow a court to declare, against all claimants, who owns a parcel.

These are largely matters of state law, and their elements and periods differ from state to state. Florida's Marketable Record Title

Act gives a person vested of record for thirty years a marketable title free and clear of claims older than the root of title (Fla. Stat. ch. 712); California law acquires title by five years' adverse possession coupled with payment of taxes, and provides a statutory quiet-title action (Code Civ. Proc. §§ 325, 760.010 et seq.). What they share is a purpose: to convert long, open, good-faith possession into legally secure title, and to stop the past from being reopened indefinitely.

For China, the transferable idea is not any particular American statute. It is the principle that a transition must set a cut-off. Households that have occupied and paid for their homes for decades, in good faith and under the law then in force, should not have their title held in suspense while every earlier claim is litigated. At the same time, a cut-off that operates without a compensation channel for those it bars is not justice; it is merely closure.

7. The lesson: ratify, compensate or correct

The American experience suggests a three-part framework that the rest of this paper adopts.

Ratify existing titles where reliance interests and good-faith acquisition justify stability. This should be the default for the urban residential stock and for most rural household rights.

Compensate where historical injustice is established but restitution in kind is impracticable or would destroy innocent present interests. This is the remedy for most pre-1949 and campaign-era confiscations (Section II.7).

Correct titles — restore property in kind — only where the property is identifiable, the injustice is clearly established, and restitution can be made without disproportionate harm to present

occupants.

The American record shows what happens when the second and third categories are neglected: titles become secure while the grievances they rest on remain unanswered. The Free China settlement should do better by building the compensation channel at the same time as the cut-off, not generations later.

IV. ROC (TAIWAN): THE WORKING PRECEDENT

ROC (Taiwan) is the closest working precedent for what this paper proposes. Between 1949 and 1953 a Chinese-speaking government, operating under a legal tradition that shares roots with the PRC (Mainland) system, carried out a land reform that changed who owned the countryside. It did so in stages, by statute, and with compensation to those who lost land rather than by confiscation. It was followed, over the following decades, by a broadening of property ownership and a gradual transfer of state-held enterprises into private hands. The precedent is important not because its circumstances can be repeated — they cannot — but because it shows that a large transfer of ownership can be combined with institutional continuity, and can leave behind a property order that most people come to regard as legitimate.

1. Stage one: the 37.5 percent rent cap

The first stage did not change ownership at all. It changed the terms of tenancy. A 1947 government decree had already set a limit on farmland rent "at the rate of 37.5 percent of the yield of the principal product", and in April 1949 the Regulations on the Lease of Private Farmland in the Taiwan Province were promulgated to put the policy into effect (J.Y. Interpretation No. 580, reasoning). Rent of this kind had previously been set by custom and could reach around half of the harvest.

The policy was then given a statutory basis. In the words of the Constitutional Court of the ROC (Taiwan):

"The Statute for the Reduction of Farmland Rent to 37.5 Percent ... promulgated on June 7, 1951 ... was enacted to provide a legal basis for the policy launched in 1949 on the reduction of farmland rent to 37.5 percent" (J.Y. Interpretation No. 580, 9 July 2004).

The same interpretation describes the statute as "specifying strict restrictive conditions on termination of a farmland lease and on repossession of such land by the lessor", and notes that the minimum term of a lease was set at no less than six years (J.Y. Interpretation No. 580).

Three features of this first stage matter for China. It protected the people actually working the land before it asked anyone to give up ownership. It did so by statute, so that tenants held enforceable rights rather than administrative favours. And by capping rent and restricting eviction, it reduced the value of landlord ownership in a predictable way, which made the later transfer of that ownership cheaper and less contested. A Free China settlement that begins by securing the position of present occupiers — urban flat-holders and rural households alike — before it settles the question of title is following the same order.

The 37.5 statute also shows the long life of transitional measures. More than fifty years after its enactment it was still in force and still being tested before the Constitutional Court; Interpretation No. 580 itself was a review of its restrictions on landlords' rights. Transitional property law, once enacted, becomes part of the permanent order and must be drafted with that in mind.

2. Stage two: the sale of public land

Before requiring any private landlord to sell, the government sold its own agricultural land to the farmers who worked it, on instalment terms. Under the Taiwan Province regulations for the release of public farmland to foster owner-farmers, issued in June 1951, the sitting tenant took ownership at a price of two and a half times the land's annual main-crop yield, payable in kind over ten years without interest; the programme ran in stages until 1976 and, on the official tally, transferred some 139,000 hectares to about 286,000 farm households. Much of that public land had passed into government hands at the end of Japanese rule. The sequence matters. The state began the transfer of ownership with land it already held, which demonstrated the mechanism, built the administrative capacity to run it, and expanded the class of owner-farmers before any private interest was compelled.

The Chinese parallel is the land the state already owns. In the PRC (Mainland) the state is the owner of all urban land. A Free China settlement can begin its conversion of use rights into ownership with land that is undisputedly the state's and is occupied by households in good faith, before it turns to the harder cases of contested collective land and historical claims.

3. Stage three: land to the tiller, with compensation

The third stage, launched in 1953 under the Land-to-the-Tiller Act, required landlords above a retention limit — three jia (about 2.9 hectares) of medium-grade paddy, with graded equivalents for other land (art. 10) — to sell tenanted farmland to the state for resale to the tenants who worked it. The price was fixed by the Act at two and a half times the annual main-crop harvest of the land (art. 14). Landlords were compensated in the proportions the Act itself prescribes: seventy percent of the price in commodity-

denominated land bonds and thirty percent in shares of state-owned enterprises (art. 15). The bonds bore interest at four percent and were redeemed, principal and interest together, in equal instalments over ten years (art. 16); the farmers who received the land repaid the same price, with four percent interest, in equal instalments over ten years, in kind or in land bonds (art. 20).

That structure is the single most important design feature of the ROC (Taiwan) reform for the Free China case. Its logic is clear. Paying the larger part in bonds spread the cost of compensation over time and avoided an immediate cash burden the government could not have carried. Paying the remainder in enterprise shares turned former landlords into shareholders in the industrial economy, giving them a stake in its growth rather than a grievance against it. Repayment by instalments let farmers acquire ownership without capital they did not have.

The Chinese question is analogous. A transition will need to compensate some parties — holders of historical claims, collectives whose land is converted, perhaps local governments whose revenue base is removed — without paying the full market value of the land in cash, which no government could afford. Bonds and equity in state-held enterprises are the obvious instruments. ROC (Taiwan) shows that they can work. It also shows, as the next section explains, that their real value to the people who received them is the measure of whether the compensation was fair.

4. What changed

Official accounts of the reform report a large fall in tenancy and a corresponding rise in owner-farmer households over the reform period. The figures that would let this paper state the scale precisely — the share of farm households who were tenants before and after, the area transferred under each stage, and the change in

agricultural output and rural income — are not assembled here from the original statistical series. Until they are, the paper limits itself to the direction of change, which is not in dispute, and does not rely on any number.

5. Beyond land: state enterprises and Japanese-era assets

Land reform was followed by a much longer process. At the end of Japanese rule, a large stock of enterprises and property passed into the hands of the ROC government. Over the following decades, some of that stock was transferred to private hands — beginning with the enterprises whose shares were used to compensate landlords — and later through programmes of state-enterprise privatisation.

It would be a mistake to treat land reform as the explanation for ROC (Taiwan)'s later economic growth. Industrial policy, export orientation, foreign aid, education and many other factors played a part. The narrower claim this paper makes is that the reform created a broad class of small owners whose property was secured by statute, and that later economic growth was distributed through a society in which ownership was already widely held.

6. The limits of the precedent

The ROC (Taiwan) reform cannot be transplanted, and the paper should be explicit about why.

It was carried out under authoritarian government and martial law. The state's capacity to compel landlords to sell, and to set the terms on which they were paid, owed much to the absence of democratic constraints. A democratic Free China would have to secure consent, or at least lawful process, for what ROC (Taiwan) achieved by decree and statute under one-party rule.

The government that carried it out had arrived from the Mainland and had few ties to the landlord class it was compelling. Its political cost was correspondingly low. A Free China government would be expropriating, or converting the interests of, its own constituents.

The pre-reform distribution of land on the island, the administrative records inherited from the Japanese colonial cadastre, and the small scale of the territory all made the reform more tractable than its Mainland equivalent would be. The PRC (Mainland) has no complete cadastre (Section VII), and its land stock is vastly larger.

And the fairness of the compensation is itself a question of evidence. Former landlords did not uniformly regard the bonds and shares they received as fair, and their market value at the time of issue and over the redemption period is the measure that matters.

7. Why it produced legitimacy rather than oligarchy

With those limits stated, the central point of the ROC (Taiwan) precedent stands. The reform transferred a great deal of property, by compulsion, from a small class to a large one, and it did not produce the concentration and capture that followed rapid privatisation in parts of the post-communist world (Section V). Several features plausibly explain the difference, and each is a design choice rather than an accident of history:

- Sequence. Occupiers were protected first, public land was transferred second, private land third.
- Statute. Each stage rested on published law, not on administrative discretion.
- Beneficiaries. The land went to the people who worked it, not to whoever could bid for it.

- Compensation. Losers were paid, in instruments that gave them a stake in the new economy.
- Breadth. The result was a large number of small owners, not a small number of large ones.

These are hypotheses to be tested against the evidence assembled for Section V, not conclusions drawn from the outcome. But they point directly to the design of the Free China settlement in Section VI: protect present occupants first; convert state-owned land before contested land; act by statute; transfer ownership to the people in possession rather than auction it; compensate in bonds and equity; and cap the size of any single acquisition during the transition window.

V. OTHER TRANSITIONS: WHAT WORKED, WHAT FAILED AND WHY

The countries of Central and Eastern Europe and the former Soviet Union faced, after 1989-1991, a version of the problem a Free China would face: a property stock almost wholly held by the state, a population with strong and conflicting claims on it, and a political class that would run the transfer. Their results ranged from broadly legitimate market economies to concentrated insider ownership that remains a grievance a generation later. The lesson of these cases is that privatisation is not a single act of moving state property into private hands. Its sequence, transparency, eligibility rules, restitution mechanism and limits on concentration decide whether it builds a legitimate market order or a new class of politically connected owners.

This section takes seven cases. Five are post-communist privatisations of state property; two, Mongolia and Vietnam, are Asian land regimes that began from state or "entire-people"

ownership and took different roads.

1. East Germany: restitution as the rule, and its exceptions

Germany is the clearest example of a transition that chose restitution in kind as its starting principle. The Unification Treaty of 31 August 1990 incorporated the two governments' Joint Declaration of 15 June 1990 on the settlement of open property questions as part of the Treaty. (Einigungsvertrag, art. 41(1)) The Property Law (Vermögensgesetz, VermG), signed on 23 September 1990, then gave that principle statutory form.

The law's scope is defined by the kind of taking. It covers assets that were "expropriated without compensation and transferred into people's ownership", assets expropriated for less compensation than was due to citizens of the former GDR, assets sold to third parties by state administrators or by the holder after transfer into people's ownership, and enterprises transferred into people's ownership under the 1972 nationalisation decision. (VermG § 1(1)(a)–(d)) Its core rule is restitution on application:

"Vermögenswerte, die den Maßnahmen im Sinne des § 1 unterlagen und in Volkseigentum überführt oder an Dritte veräußert wurden, sind auf Antrag an die Berechtigten zurückzuübertragen, soweit dies nicht nach diesem Gesetz ausgeschlossen ist." (VermG § 3(1))

("Assets that were subject to measures within the meaning of § 1 and transferred into people's ownership or sold to third parties are to be returned on application to the entitled persons, unless this is excluded under this Act.")

This is the rule usually summarised as "restitution before

compensation". The summary is accurate only as a description of the default. The same statute builds in exclusions that, in practice, carry much of the weight. Restitution is excluded where it is "no longer possible by the nature of the thing". (VermG § 4(1)) It is excluded where natural persons, religious communities or charitable foundations acquired ownership or rights of use "in good faith" (in redlicher Weise) after 8 May 1945. (VermG § 4(2)) And for land and buildings it is excluded in particular where the property has been changed in use with substantial construction and there is a public interest in that use, has been dedicated to public use, has been used in complex housing or settlement construction, or has been incorporated into an enterprise and cannot be returned without substantial harm to it. (VermG § 5(1)(a)–(d)) A claimant with a right to restitution could instead choose compensation within six months of the Compensation Act entering into force, or five years if resident abroad. (VermG § 8(1))

The Unification Treaty also wrote an investment exception into the settlement from the start. Under Article 41(2), restitution of land or buildings does not take place, subject to special legislation, where the property is needed for urgent investment purposes, in particular to establish a business site, and the investment is economically worthy of support, "above all creating or securing jobs"; the investor must submit a plan and commit to carrying it out, and the law must also provide for compensation of the former owner.

The German case therefore demonstrates three things for China. First, a restitution principle can be adopted in law and survive, but only with exclusions that protect good-faith acquirers, public use, housing estates and functioning enterprises. Without them, restitution would have reopened the housing of large numbers of present occupants. Second, the exclusions are where the real policy

choices lie, and they should be drafted as deliberately as the rule. The VermG's protection of people who acquired "in good faith" after 1945 is the direct analogue of the protection this paper proposes for PRC (Mainland) households who bought use rights in good faith under the law then in force (Section III.7). Third, a restitution regime can delay investment while claims are pending, which is why the Treaty itself carved out an investment priority.

The privatisation of East German state enterprises through the Treuhandanstalt ran alongside the restitution regime and is a separate subject. The paper does not rely on any claim about the Treuhand's results.

2. Czechoslovakia: distribution by voucher

Czechoslovakia chose mass distribution. The programme was federal: the governing statute was enacted by the Federal Assembly of the Czech and Slovak Federative Republic. The Act of 26 February 1991 on the conditions for transferring state property to other persons (Act No. 92/1991 Coll.) defined privatisation as the transfer of property held by state enterprises, state financial institutions and other state organisations, and of the state's ownership stakes in other legal persons, to Czech or foreign legal or natural persons. (Act No. 92/1991, § 1(1)) It provided that stakes could be transferred "for investment vouchers", defined as a registered security entitling its holder to buy shares offered for vouchers. (§ 22(1)–(2))

Eligibility was broad and simple. In the consolidated text of the Act, every citizen with permanent residence who reached eighteen by the last day of the registration period was entitled to acquire a voucher, and the total of satisfied share orders for one voucher holder in one privatisation wave was capped at 1,000 investment points. (§ 24(1)–(2)) Under the federal government decree of 5

September 1991, anyone could buy a voucher booklet for 35 Kčs, and the acquisition price of the vouchers in an issue was 1,000 Kčs, paid at registration by a stamp affixed to the registration card. (Government Decree No. 383/1991, § 6(1)–(2))

The design achieved what it set out to do: it put ownership claims in the hands of a large part of the adult population quickly, at a low entry price, and with a per-person cap. Its weaknesses lay elsewhere — in what happened after distribution. The questions the paper must answer before drawing conclusions are how investment funds gathered citizens' vouchers, how far insiders retained control of the enterprises, how ownership concentrated over the following years, and how well minority shareholders were protected. The lesson for China at this stage is limited and clear: broad distribution is achievable, but distribution without corporate-governance rules and minority-shareholder protection hands the second round of the transfer to whoever controls the intermediaries.

3. Poland: sequencing and institutions

Poland's privatisation proceeded more gradually, through several routes: commercialisation of state enterprises into companies owned by the State Treasury, direct ("liquidation") privatisation, capital privatisation by sale of shares, and employee participation. The governing statute, the Act of 30 August 1996 on Commercialisation and Privatisation, also fixed the employee stake in advance: eligible employees of a commercialised company were entitled to acquire up to fifteen percent of its shares free of charge, under a value cap and a two-year bar on trading them (arts. 36 ff.). The paper draws on Poland chiefly for one point: that the pace and route of privatisation can be chosen enterprise by enterprise, and that commercialisation — turning a state enterprise into a

company with accounts, a board and a shareholder — is a useful first step even before ownership changes.

4. Hungary: compensation in place of restitution

Hungary chose, for most historical claims, partial compensation rather than return of property. Its 1991 partial-compensation legislation (Act XXV of 1991) compensated persons whose property had been seized under rules enacted after 8 June 1949 (§ 1), and did so only in part: compensation was calculated on a degressive scale, under which the compensated share of the loss fell as the value of the loss rose, and was capped (§ 4). It was paid in compensation vouchers — bearer instruments, transferable, representing a debt of the state — which the state had to accept, among other things, in the purchase of state property sold in privatisation and in the obtaining of farmland (§§ 5, 7). Where restitution in kind is impractical or would displace present users, compensation in a tradeable instrument can settle claims without reopening titles. The paper's Category B (Section VI.4) follows the same logic. The fiscal cost and distribution of the Hungarian compensation remain open questions.

5. Russia: the negative case

Russia's "loans-for-shares" scheme of 1995 is the case every transition planner cites as what to avoid. In it, blocks of shares in major state-owned companies were pledged to private banks as security for loans to the government, and on the government's non-repayment the shares passed to the lenders, or to parties associated with them, through auctions that the lenders themselves organised.

Presidential Decree No. 478 of 11 May 1995 is sometimes identified as the scheme's legal basis. It needs to be cited precisely. Decree

No. 478, "On measures to ensure the guaranteed receipt of privatisation revenue into the federal budget", did four relevant things. It prohibited the early sale of federally held share blocks in privatised companies producing goods of "strategic importance for ensuring national security", on a list to be approved by the government; it cancelled the earlier restrictions on selling other federally held share blocks and ordered their staged sale; it created a Federal Commission to prepare the strategic list; and it instructed the government to present, within two months, a draft presidential decree "regulating the procedure for transferring into pledge [в залог] and trust management to legal persons the shares of joint-stock companies held in federal ownership", to secure guaranteed budget revenue, together with the later sale of the shares. (Decree No. 478, paras 1–4) It also required that the starting price of shares sold be no lower than the price fixed by the Commission's methodology.

In other words, Decree No. 478 created the mandate and the budgetary rationale for pledging state shares; it did not itself set the terms of the pledges or the auction rules. Those were set by a later instrument: Presidential Decree No. 889 of 31 August 1995, on the procedure for transferring in 1995 into pledge shares in federal ownership. Decree No. 889 approved the holding, in the fourth quarter of 1995, of auctions for the right to conclude credit, pledge and commission contracts over federally held share blocks; it approved the auction rules and the mandatory terms of those contracts, and its validity conditions required more than one bidder, each guaranteeing a loan at least equal to the starting price, with the contract going to the largest loan. The pledgee, once in possession, voted the pledged shares at its own discretion except on a listed set of fundamental questions. This matters for the argument as well as for accuracy. The defects for which loans-for-

shares is remembered — lenders organising the auctions in which they were bidders, limited competition, and prices that were low relative to the assets' later value — lay in the implementing rules and their execution, not in the general decision to raise revenue from state shares.

The lesson for China is therefore specific. A transition government under fiscal pressure will be tempted, as Russia's was, to raise money quickly from state assets. The danger is not the decision to raise revenue but a procedure in which the parties who finance the state also design, run and win the sale. The anti-capture provisions of Section VI.7 — independent valuation, competitive bidding, disclosure of beneficial ownership and a prohibition on insiders running auctions in which they bid — are written against this case.

6. Mongolia: citizen ownership by statute, with restrictions

Mongolia is the most useful Asian comparator for ownership conversion because it began, like the PRC (Mainland), from a system in which land belonged to the state, and moved by constitutional and statutory steps to private ownership of some land by citizens.

The Constitution of Mongolia sets the frame. Land, "except that in private ownership of the citizens of Mongolia", together with subsoil, forests, water and fauna, is the property of the State. (Constitution of Mongolia, art. 6(2)) Article 6(3) provides:

"The state may give for private ownership land, other than pastures and areas under public use or reserved for the State's special needs, only to the citizens of Mongolia. This provision shall not be applicable to ownership of the land subsoil. Citizens shall be prohibited to transfer the land in their possession to

foreign nationals and stateless persons by way of sale, barter, donation or pledge as well as from transferring to others for their use without the permission from the competent authorities of the State." (art. 6(3))

> The State may exchange or reclaim land "providing compensation on the grounds of the State's special needs", or confiscate it if it is used in a manner adverse to health, environmental protection or national security; and foreigners may be allowed to use land for a fee, for a fixed period. (art. 6(4)–(5))
>
> The 2002 Land Law repeats the structure: land other than that granted to citizens for ownership is state property; land "excluding pastureland, land for common tenure and land for the state special state needs, may be given for ownership to citizens of Mongolia only"; and the issues of giving land to citizens for ownership "shall be regulated by the relevant law". (Land Law of Mongolia (revised version), 7 June 2002, arts. 5.1–5.3) That "relevant law" is the 2002 Law on Allocation of Land to Mongolian Citizens for Ownership.
>
> Three features matter for the Free China case. Ownership was given by statute to a defined class — citizens — rather than by administrative discretion. Some categories of land were excluded from private ownership from the start: pasture, common land and land reserved for state needs. And the right of ownership was restricted in ways that protect against capture: land may not be sold, given or pledged to foreigners, and use by others requires permission. These are exactly the kinds of exclusion and restriction that Section VI proposes for rural and ecological land. How much land was actually privatised, and how the restrictions worked in practice, remain to be established.

7. Vietnam: marketable use rights without ownership

Vietnam shows the opposite path: a market economy that has kept

the use-rights model. Its Constitution of 2013 provides that land, water, minerals and other natural resources "are public properties, coming under ownership by the entire people represented and uniformly managed by the State". (Constitution of Vietnam, art. 53) Organisations and individuals receive land by allocation, lease or recognition of the land-use right; "Land user has the right to transfer the land use right, and practice related rights and duties in concordance with the law. The land use right is protected by the law." (art. 54(2)) The State may recover land for defence, security and "socio-economic developments for national and public interests", and "The recovery of land must be public and transparent, and compensations must be provided in concordance to the law." (Constitution of Vietnam, art. 54(3))

The Land Law No. 31/2024/QH15 of 18 January 2024 states its scope as the land-ownership regime and the powers of "the State acting as the owner's representative of the entire-people ownership of land". (art. 1) By a later amending law, its entry into force was brought forward to 1 August 2024. (Law No. 43/2024/QH15 of 29 June 2024, amending art. 252(1)) The Vietnamese comparison is useful precisely because it is not a model. Land-use rights in Vietnam are transferable and protected by the Constitution, and markets in them operate under the Land Law. But the underlying ownership remains with the State as representative of the people, and the State's power to recover land for "socio-economic development" is written into the Constitution. Marketability, in other words, is not ownership. That is the PRC (Mainland) position as well, and the reason this paper argues that the expiry problem (Section II) cannot be solved by renewal rules alone.

8. Comparative assessment

Transition	Principal mechanism	Main lesson for Free China
East Germany	Restitution as default, with statutory exclusions	Historical claims need rules, exclusions and deadlines; good-faith acquirers must be protected
Czech Republ	Voucher distribution to all adult citizens	Broad distribution is achievable but needs governance of intermediaries

Transition	Principal mechanism	Main lesson for Free China
Poland	Gradual, enterprise-by-enterprise routes	Sequencing and institutions matter
Hungary	Partial compensation by tradeable voucher	Compensation can substitute for impractical restitution
Russia	Pledge of state shares, sale to lenders	Never let financiers of the state design, run and win the sale
Mo	Constitutional and	Ownership conversion can

Transition	Principal mechanism	Main lesson for Free China
Mongolia	statutory citizen ownership with exclusions	be staged, restricted and confined to citizens
Vietnam	Transferable use rights under state ownership	Marketability does not equal ownership

Read together, the cases point to the same design principles that emerged from ROC (Taiwan) in Section IV: act by statute, define beneficiaries in advance, protect good-faith present holders, exclude categories that should not be privatised, and close off the routes by which insiders capture the process. The German exclusions, the Czech per-person cap and the Mongolian restrictions on transfer to foreigners are different instruments serving the same purpose. Russia shows what follows when none of those safeguards is present.

VI. THE FREE CHINA SETTLEMENT: FROM USE RIGHTS TO PRIVATE OWNERSHIP

This section turns from description to proposal. Everything in it is a policy recommendation for a Free China legislature, not a statement of current PRC (Mainland) law.

The central proposal is simple to state. A Free China transition should convert ordinary residential land-use interests into durable private ownership without charging households a second time for homes and land-use rights they have already paid for. Rural land, historical restitution claims and state-held assets raise different problems and need separate mechanisms. All of them should be settled by legislation, independent registration, judicial review and staged administrative procedure — not by executive discretion, which is the instrument by which every failed transition in Section V was captured.

1. Residential use rights: conversion by statute

The proposed rule for the urban residential stock is a statutory conversion:

- On a statutory conversion date, every existing lawful residential land-use right converts into perpetual private ownership of the corresponding land interest.
- The owner of the residential building receives that land interest.
- Conversion applies whether the original grant was for 20, 40, 50 or 70 years, and whether the term is running, near its end or already expired.
- No new market-price purchase is required.
- Existing mortgages, liens, easements and other legitimate third-party rights attach to the converted ownership under

defined transitional rules.

- Registration confirms the converted title; it does not create a new discretionary approval.

The case for conversion rests on the argument of Sections I-II. Under the 1990 Interim Regulations, residential grants carry a maximum term of seventy years; the Civil Code provides that the term of a residential construction-land use right is automatically renewed on expiry, while leaving the payment or reduction of renewal fees to be handled under laws and administrative regulations; and the 2016 Property Rights Opinion committed the authorities to study the legal arrangements for renewal and to build stable expectations that citizens' property is protected for the long term. Households have therefore bought, mortgaged and inherited their homes on the assumption, encouraged by the state, that the land beneath them would remain theirs. A Free China settlement should turn that assumption into law rather than leave it as a fee question to be answered later by the bodies that collect the fees.

Two technical problems must be solved in the statute itself.

The first is the distinction between the building and the land. In the PRC (Mainland), a household owns its flat but holds only a use right in the land, and in a multi-storey building that use right is shared among all the owners. Conversion should give each flat owner an undivided share of the land on which the building stands, held in common with the other owners and attached inseparably to the flat — the structure used in most condominium systems. The statute must define how shares are calculated (by floor area is the obvious default), who manages the common land, and what happens when a building is demolished or redeveloped.

The second is the timing of conversion. Two models are possible:

automatic conversion on the transition date, with registration following as confirmation; or conversion on registration within a fixed period. Automatic conversion gives the greatest security and is least open to administrative obstruction. Conversion on registration produces cleaner records but risks excluding households who do not register in time. The paper recommends automatic conversion with a registration period that confirms, but does not create, the title; failure to register should delay the issue of a certificate, not forfeit ownership.

The parallel in Section III is the Homestead Act: a state converting its land into private ownership on nominal payment, conditioned on residence and use rather than on market price. The parallel in Section V is the German protection of good-faith acquirers. Both point the same way.

2. Conversion charges: principal residences, additional holdings, commercial land

The conversion-fee question is where a fair settlement can most easily be undone. The recommendation is to distinguish three classes of holding.

For a household's principal residence:

- No conversion charge, or a nominal administrative registration fee.
- No retroactive demand for renewal fees.
- No forfeiture because the original term has expired or is about to expire.

For additional residential holdings, a legislature may wish to consider graduated conversion charges where a household owns several residential properties. Any such charge should not penalise legitimate inheritance or ordinary saving through property, and

should exempt low-income owners and inherited family homes. The paper takes no position on rates; the principle is that conversion of the family home is a matter of right, while conversion of investment holdings may legitimately carry a public charge.

For commercial and industrial land, the statute should provide a separate procedure. Commercial grants (forty years) and industrial grants (fifty years) were often priced with the term in view, and holders' reliance interests differ from those of homeowners. The options include conversion to ownership on payment of a statutory charge, conversion without charge where the full grant price has been paid, or conversion to a perpetual registered interest short of full ownership. Whichever is chosen, existing contracts must be honoured and there must be no retroactive confiscation or arbitrary termination of existing rights.

3. Rural land: from collective discretion to household ownership

The rural problem is different in kind. Rural households in the PRC (Mainland) hold their homestead and contracted farmland not as owners but as members of a collective whose ownership is exercised, in practice, by village and township authorities; the Land Administration Law fixes the homestead as a membership entitlement — one per household, within provincial area standards, approved by the township government, with no new homestead for a household that has sold, rented out or given away its house (art. 62; Civil Code, arts. 330–343, 362–365). The objective of a Free China settlement should be to replace dependence on collective discretion with legally enforceable ownership. It should proceed in stages:

1. Identify existing collective land and its actual users.
2. Settle membership and household eligibility, by published

criteria.

3. Register existing homestead and agricultural interests.
4. Allocate ownership according to transparent historical and statutory criteria.
5. Protect agricultural land, ecological areas and essential communal resources.
6. Compensate where allocation cannot be reconciled with existing legitimate interests.

The settlement must distinguish at least six categories of rural land, each with its own rule: residential homestead land; contracted agricultural land; forest and grassland; collective commercial and industrial (construction) land; village common land; and land for public infrastructure and ecological protection. Homestead land and contracted farmland are the natural candidates for household ownership. Forest, grassland and common land may be better held by the community under transparent governance, or by the state, as Mongolia excludes pasture and common land from private ownership. Collective construction land raises the same questions of reliance and capture as urban commercial land.

Household ownership should not mean unrestricted subdivision or conversion of farmland to urban construction. Zoning, farmland protection and environmental law continue to apply to owned land as they do in every market economy. A transitional restriction on sale to non-members, or on the size of holdings that one buyer may acquire, may also be justified for a fixed period, to prevent the rapid concentration of newly allocated land in the hands of speculators or officials.

4. State-held property and historical claims: four categories

Section II.7 and Section III set out why a Free China settlement

must address historical confiscation without reopening every present title. The proposed framework sorts claims into four categories. These four categories decide the remedy; they cut across the five descriptive categories of Section II.7, which sort claims by how the property was taken, not by what remedy follows.

Category A — identifiable wrongful confiscation. Where the original owner, the property, the confiscation and the chain of later transfers can be established, restitution in kind should be considered, subject to the protection of present good-faith occupants and of intervening lawful transfers.

Category B — identifiable property, impractical restitution. Where the property is identifiable but its return is impractical or would harm present occupants disproportionately, compensation should be paid in cash, bonds or claims on a dedicated restitution fund.

Category C — claims that cannot be reliably established. These should be heard under a defined evidentiary framework. Unverified historical assertions should not displace present ownership.

Category D — property transformed by later public investment. Where the original property has been substantially rebuilt, merged or put to public use, the presumption should be compensation rather than return.

The German Property Law shows how such categories work as statute. Its default of restitution on application is limited by exclusions where return is impossible by the nature of the thing, where good-faith acquirers have since obtained rights, and where land has been put to public use, built over for housing estates or

absorbed into an enterprise (VermG §§ 4(1)–(2), 5(1)) — in effect, Categories B and D. Hungary's choice of tradeable compensation is a model for Category B. ROC (Taiwan)'s compensation of landlords in bonds and enterprise shares shows that compensation need not be paid in cash.

The framework must also distinguish the legal character of the original taking: confiscation under the historical statutes of the time (such as the 1950 Agrarian Reform Law); confiscation without lawful authority; seizure as part of political persecution; and later expropriation for development. The statute should decide, for each, whether the claim is admissible at all, and the remedy that follows. And it must set a deadline. A restitution regime without a filing deadline keeps every title in suspense indefinitely — the lesson of Section III.6 on the need for a cut-off, and of the German investment priority.

5. State-owned enterprises: competitive and transparent privatisation

Not every state-owned enterprise should be privatised, and none should be privatised by negotiation behind closed doors. The paper proposes that enterprise privatisation be governed by:

- independent valuation;
- public disclosure of beneficial ownership of every bidder;
- competitive auctions, with public participation where appropriate;
- employee protections, and the option of employee or citizen share allocation;
- minority-shareholder protection in the privatised company;
- independent audit of every sale;
- a prohibition on insider bidding without disclosure and independent review; and
- judicial remedies, including reversal, for fraudulent

transfers.

Strategic infrastructure and natural monopolies may require continued public ownership or regulated private ownership. The Czech case shows that broad citizen distribution is possible; Russia shows what follows when the state's creditors run the sale. The Free China rule should combine the Czech breadth of eligibility with governance rules strong enough to stop a second-round concentration.

6. Land finance: unwind it before or alongside conversion

Conversion will remove a revenue base on which local governments in the PRC (Mainland) have come to depend. Granting use rights and collecting land-conveyance fees is a central source of local revenue, and land is pledged behind much local-government borrowing. A conversion that abolished this revenue overnight, without replacement, would push local authorities toward disguised fees and informal charges on the very households the settlement is meant to protect.

The settlement should therefore:

- replace reliance on land-conveyance revenue with transparent, tax-based local finance, including a recurrent property tax set by law;
- separate land registration from revenue collection, so that the body that confirms title has no interest in the fee;
- prohibit local authorities from imposing any conversion charge not authorised by national statute;
- establish intergovernmental fiscal transfers for the transition period;
- audit local-government financing vehicles and land-backed obligations; and

- decide by law which existing public debts are secured by legitimate property rights, distinguishing ordinary borrowing from arrangements resting on questionable acquisition or inflated land values.

7. Anti-capture: build it in from the first day

The decisive lesson of Section V is that capture is easiest at the beginning, when records are incomplete and rules are new. The Free China settlement should include, from the first statute:

- public registers of beneficial owners;
- disclosure of politically exposed persons;
- independent valuations and competitive bidding;
- restrictions on self-dealing by transition officials;
- caps or phased acquisition limits on holdings acquired during the transition window;
- conflict-of-interest rules and independent appeals;
- public reporting of all privatisation proceeds;
- criminal and civil penalties for fraudulent transfers;
- protection for whistleblowers; and
- independent audit and legislative oversight.

The principle can be stated in one sentence. No official, party organisation, military institution or transition authority should have discretionary power to allocate valuable public land or enterprise assets to insiders.

8. Implementation sequence

The proposed order of work is:

Stage 1 — Legal freeze and preservation. Prohibit undocumented transfers, the

destruction of records and politically motivated disposal of state assets. Preserve existing residential occupancy and property interests.

Stage 2 — Registration and verification. Establish independent land-registration authorities, digitise records, and open a procedure for claims and objections.

Stage 3 — Residential conversion. Convert qualifying residential use rights into ownership under a clear statutory rule, with ordinary principal residences first.

Stage 4 — Rural settlement. Resolve collective membership, homestead, agricultural and communal land rights.

Stage 5 — State-asset restitution and privatisation. Process historical claims and privatise eligible assets through transparent mechanisms.

Stage 6 — Fiscal and institutional consolidation. Replace land-dependent local finance, complete title registration, and establish permanent judicial and regulatory oversight.

The order follows the ROC (Taiwan) precedent of Section IV:

protect present occupants first, convert what the state already holds before contested property, and act by statute at each stage. The sequence is provisional. Emergency constitutional arrangements and the timing of elections could require changes.

9. Constitutional protection

A settlement of this kind is only as durable as the protection against its reversal. The Free China constitution should protect private property against nationalisation without compensation; define "public use" narrowly, with independent judicial review of every taking — the lesson of Kelo (Section III.5) and of the broad development-purpose recovery powers in the PRC (Mainland) and Vietnam (Constitution of Vietnam, art. 54(3)); and guarantee that conversion, once made, cannot be undone by later administrative regulation.

VII. REMAINING ISSUES REGISTER: WHAT THE PAPER MUST NOT PRETEND TO HAVE SOLVED

Sections I to VI argue for one central move: converting the use rights that Chinese households already hold into ownership, by statute, in a fixed order, under rules that keep public assets out of political hands. That move settles the largest category of property in the country. It does not settle everything. Some claims are older than the 1982 settlement. Some interests are held by families, clans, villages or peoples rather than by individuals. Some land is held by the military. Some records do not exist. And the legal authority for every step depends on constitutional choices the transition has not yet made.

A credible settlement says so. This section lists the problems that a single conversion statute or registration exercise cannot resolve, states what decision each one requires, and records how much

evidence the paper presently has for each. Where the evidence is thin, the paper says that it is thin. The purpose is not to defer every hard question but to prevent the transition from promising certainty it cannot deliver, and to make sure that each unresolved question has a forum, a rule of evidence and a deadline.

1. Pre-1949 ownership claims

Section II.7 explained why an old deed cannot by itself displace a present occupant, and set out five categories of historical claim. This part asks what a claims process would need in order to work.

The first need is evidence of what was taken, from whom and under what authority. The 1950 Agrarian Reform Law provided for the confiscation and redistribution of specified rural property. But the land reform was not the only channel of taking. Urban property, enterprises, religious and clan property, and the property of people later classed as political enemies passed to the state or to collectives through other laws, administrative measures and campaigns over the following decades. A claims process that recognised only Agrarian Reform Law confiscations would exclude many of the most serious cases; one that recognised every taking since 1949 without distinguishing among them would be unmanageable.

The second need is documents. The paper does not know which pre-1949 title documents survive, where land registers, deeds, court records and confiscation records are held, or how complete they are. It should not assume that they survive in usable form. Some will be in state archives on the Mainland, some in private hands, some in the archives of the ROC (Taiwan), and some destroyed.

The third need is a rule for descendants. Most original owners have

died. A claim made seventy-five years after a taking is usually a claim by heirs, often many heirs, sometimes in dispute with each other. The transition will have to decide who may claim (direct descendants only, or wider family), whether claims divide among heirs or vest in a representative, and whether a claim may be assigned or sold.

The fourth need is protection for innocent present occupants. The German Property Law, which made restitution its rule, excluded restitution where a present holder had acquired the asset honestly after 8 May 1945. Hungary went further and replaced restitution with partial compensation. Section VI.4 applied a compensation-first rule to state-held property and historical claims. This register records the decisions that rule leaves open:

- the standard of proof for a historical claim, and whether official confiscation records count as evidence for or against the claimant;
- a filing deadline after which unregistered claims lapse (the American lesson of Section III.6: a cut-off is necessary, but a cut-off without a compensation channel is closure, not justice);
- the form and scale of compensation, and whether it is paid in cash, bonds or shares in the ROC (Taiwan) manner (Section IV.3);
- the narrow class of cases, if any, in which restitution in kind is available — identifiable property, clearly established wrong, no innocent occupant displaced;
- the treatment of acknowledgement and rehabilitation where the wrong lay in persecution rather than in the taking itself.

Required decision: restitution versus compensation, and the evidentiary and limitation rules that go with it. Evidence status:

incomplete. The text of the 1950 statute has been read for this paper (arts. 1, 7 and 10); no confiscation records, registers or archive inventories are in hand.

2. Graves, ancestral land and cultural property

Ordinary private-property conversion is designed for flats, houses and parcels held by households. It fits badly with property whose value lies in continuity and descent rather than in use or exchange: ancestral graves and family burial sites, clan halls (祠堂), temples, ancestral houses, traditional village commons, and sacred and ceremonial land.

Three features make these interests different. They are frequently collective, held by a lineage, a congregation or a village rather than by a person. They are frequently inalienable in the eyes of the people who hold them; the point of a grave or a clan hall is that it is not for sale. And they have been especially exposed to compulsory relocation, because they rarely appear in commercial registers and their holders often have no formal title to show.

The paper therefore proposes a separate cultural and ancestral property framework rather than forcing these interests through the residential conversion statute. Its elements would be:

- a register of ancestral, religious and communal sites, open to claims by lineages, congregations and villages as collective holders;
- a legal form for collective holding (a lineage trust or communal association) that can hold title without being treated as a commercial company;
- an option for registered holders to designate a site inalienable, or alienable only by a qualified collective decision;

- strict limits on compulsory relocation of graves and sacred sites, with consent requirements and independent review;
- coordination with the cultural-heritage regime, so that listing a site as heritage does not silently transfer it to the state.

The last point needs emphasis. The PRC Cultural Relics Protection Law and the burial and cemetery regulations govern which sites are protected and by whom — and the Cultural Relics Protection Law, as revised in 2024 and in force from 1 March 2025, already answers the ownership question for many of them against their holders: ancient cultural sites, ancient tombs and grotto temples are state-owned; immovable relics designated for state protection are state-owned unless otherwise provided; and the ownership of a state-owned immovable relic does not change when the ownership or the use right of the land it stands on changes (art. 5). At the international level, the 1972 World Heritage Convention does not resolve ownership at all. Article 6(1) recognises world heritage as a matter for international cooperation "[w]hilst fully respecting the sovereignty of the States on whose territory the cultural and natural heritage ... is situated, and without prejudice to property right provided by national legislation". (World Heritage Convention, art. 6(1)) Heritage protection and property title are separate questions. The Free China settlement must answer the second in its own law.

Required decision: individual and communal protection for ancestral and sacred property. Evidence status: incomplete. The World Heritage Convention and the Cultural Relics Protection Law (art. 5) have been read; the burial and cemetery regulations, and any data on the number or condition of such sites, are not.

3. Ethnic-region land regimes

The conversion model of Section VI assumes a household, a parcel

and a use right. In Inner Mongolia, Xinjiang, Tibet and other regions with pastoral, customary or collective land practices, that assumption may be wrong. Grazing land used seasonally by many households, migration routes that cross administrative boundaries, and land whose use is governed by custom rather than by contract do not divide neatly into private parcels. Dividing them into parcels could destroy the way of life that depends on them.

The present legal framework for these regions rests on the PRC Law on Regional National Autonomy, which the PRC cites as the legal basis of its policy towards ethnic minorities. The Law's own land provisions are brief and structural: the organs of self-government of an autonomous area determine, in accordance with law, the ownership and the right to use of the pastures and forests belonging to the area, and they manage and protect its natural resources (arts. 27–28). What those articles leave open — how customary grazing, seasonal migration and collective use are to be treated — is what implementing legislation and practice would have to show. Neither has been assembled for this paper, nor has evidence of how grassland contracting has been applied in practice. Independent concern about rights in Xinjiang and Tibet is on the record: the UN Committee on the Elimination of Racial Discrimination in 2018 reported concern based on "reports" of restrictions in both regions, and the PRC rejected those concerns. (CERD/C/CHN/CO/14-17; PRC statement of 14 August 2018) Neither document is a land-tenure study, and the paper does not use them as one.

International standards point in one direction but do not bind. The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) provides that indigenous peoples "have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired", that States "shall give

legal recognition and protection to these lands, territories and resources" with "due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned", and that "[n]o relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned". The Declaration is a General Assembly resolution, not a treaty. Whether its concept of "indigenous peoples" applies to particular communities in the PRC is itself contested and requires separate legal analysis.

The ROC (Taiwan) shows that a Chinese-language constitutional order can write such protection into its founding text. Its Additional Articles commit the State, "in accordance with the will of the ethnic groups", to safeguard the status and political participation of Indigenous peoples and to assist them in matters including land. (Additional Articles of the ROC Constitution, art. 10, para. 12) The ROC (Taiwan) experience of implementing that commitment has not been assessed here.

The settlement should not assume that urban parcel ownership is the right outcome for every community. The paper proposes:

- no automatic conversion of pastoral, customary or communal land into individual parcels;
- a statutory procedure that defines consultation and consent — who speaks for a community, by what process, with what remedy if consent is refused;
- recognised forms of communal title, alongside individual title, where communities choose them;
- protection of seasonal grazing and migration routes as rights of way that survive parcel registration;
- an interim bar on the transfer of state-administered or military-controlled land in these regions until the procedure

has run.

Required decision: customary and collective rights, and who holds them. Evidence status: incomplete. UNDRIP and the Law on Regional National Autonomy (arts. 27–28) are read; implementing legislation and grassland-tenure evidence are not.

4. Military-held land

The military holds land for operational defence, land that is surplus to defence needs, and land that has been used commercially. The paper does not know how much falls into each class, which military properties have already been transferred to civilian authorities, or how military-owned commercial property is recorded.

The risk is plain from Section V. Military property is the class of public asset most easily removed from public view and most easily transferred to insiders during a transition. A settlement that converted civilian use rights while leaving military-held land outside every register would invite the capture it was designed to prevent.

The settlement should adopt the following rule:

- all military-held land is inventoried and classified;
- operational defence property remains under public control, subject to constitutional oversight;
- surplus and commercial property enters the ordinary public-asset settlement framework of Sections VI.4-VI.5, including the anti-capture rules of Section VI.7;
- an independent body, not the military itself, audits the inventory and publishes it, with narrowly defined security exceptions reviewed by the legislature.

The questions the paper cannot yet answer are which body should conduct the audit, how security exceptions are to be limited, and whether past transfers of military land to commercial users should be reopened. The governing instruments — the National Defense Law and the military's own land and real-estate regulations — have not been examined for this paper.

Required decision: operational retention versus disposal, and who audits. Evidence status: incomplete.

5. The incomplete cadastre

The paper must not assert that a complete, reliable national cadastre exists. It has no evidence either way at the level of detail the settlement needs.

Before conversion can be completed, the transition needs to know what proportion of parcels is registered; how much registration data is digitised; where land and housing records disagree; how many parcels carry overlapping claims; how many rural properties have no formal registration at all; and how reliable historical boundaries are. Official reporting by the Ministry of Natural Resources on land and real-estate registration should be the first source, but no specific report has yet been identified and verified. World Bank land-administration assessments are useful secondary evidence; they are not a substitute for official records.

The proposed response has two parts. First, a national cadastral reconstruction programme that combines historical records, current surveys, satellite imagery, local testimony and a public objection period. Second, a provisional presumption in favour of good-faith current occupants while claims are investigated, subject to exceptions for fraud and for competing registered title. The presumption is what allows Stage 3 of the implementation

sequence (Section VI.8, residential conversion) to begin before the cadastre is complete. Without it, conversion would wait on the slowest survey.

Two cautions apply. The ROC (Taiwan) reform benefited from an inherited colonial-era cadastre (Section IV.6); the Mainland has nothing comparable. And Germany's restitution process showed that title uncertainty itself delays investment (Section V.1). A reconstruction programme must therefore run on deadlines.

Required decision: national verification and reconstruction. Evidence status: incomplete. No official cadastral report is in hand.

6. Sequencing, elections and constitutional design

Property reform must not become a means for a transition government to distribute assets to political allies before democratic institutions are in place. That is the deepest lesson of the loans-for-shares episode (Section V.5), and the reason Section VI proposed a legal freeze as Stage 1.

Several design questions remain open:

- Should a provisional property-rights statute precede the constitution? A freeze on disposals and destruction of records arguably must come first, before any constitution can be drafted; conversion itself arguably should wait for an elected legislature.
- Which matters require constitutional protection? Section VI.9 proposed a takings clause, a narrow public-use definition and protection of conversion against later reversal.
- Must independent courts be operating before historical restitution or compensation begins? The paper's working answer is yes for contested historical claims, and no for the

uncontested conversion of residential use rights.
- Can conversion occur under an interim constitutional framework, and if so, how is it protected against reversal by the first elected government?
- How does the legislature oversee the disposal of state assets, including military surplus?
- How do elections affect the legitimacy and continuity of the settlement?

The comparators answer some of these questions differently. The German settlement placed its property principles in the Unification Treaty itself, by incorporating the Joint Declaration of 15 June 1990 on open property questions. Those principles were then given statutory form in the Property Law. The ROC (Taiwan) reform proceeded by statute in stages under a constitution already in force (Section IV). Neither is a full model for a transition that must also write its constitution.

These questions overlap directly with the companion papers in this series on the constitutional transition and on the ROC (Taiwan) precedent. This paper does not answer them on its own. It records what the property settlement needs from the constitutional settlement: a freeze power at the outset, protection for conversion once made, an independent judiciary for contested claims, and legislative control over state-asset disposal.

Required decision: interim versus permanent settlement. Evidence status: requires companion review.

7. Further issues on the register

Four further issues carried from earlier sections belong on the register.

Local-government finance. Section I.7 described the dependence of

local government on land conveyance. Conversion of residential use rights into ownership removes the renewal fee as a future revenue source, and transparent public-asset rules restrict discretionary land sales. A replacement fiscal model is required — property taxation, transfers from the centre, or both — together with a plan for the debt of local-government financing vehicles. The paper has no national revenue series and no verified Budget Law provisions in hand.

Historical claims procedure. Separate from the merits of restitution versus compensation (VII.1), the transition must set limitation periods, evidentiary rules and a forum. The register lists this separately because it applies to every class of historical claim, including those under VII.2 and VII.3.

Foreign property. Foreign-invested enterprises and foreign individuals hold use rights and buildings under existing law. The settlement must decide whether conversion is open to foreign holders on the same terms, how existing investment protections apply, and how the property of foreign states and nationals taken after 1949 is treated.

Environmental land. Forests, grasslands, waters, wetlands and protected areas are state or collective property under Article 9 of the Constitution. Not all of it should be converted. The settlement must define which land stays in public ownership, how conservation safeguards apply to land that is converted, and how continued public ownership is protected against later disposal.

8. Final issues register

The register below records each issue, the decision it requires, its present evidence status, and the next evidence step. The status column records the evidence in hand when this paper was

finalised, not a final assessment.

Pre-1949 title

Required decision: restitution versus compensation

Evidence status: incomplete — the 1950 statute read (arts. 1, 7, 10); no registers or confiscation records in hand

Next step: identify archive holdings

Ancestral graves and sacred land

Required decision: individual and communal protection

Evidence status: incomplete — the World Heritage Convention and the Cultural Relics Protection Law (art. 5) have been read; burial and cemetery regulations not assembled

Next step: assemble the burial and cemetery regulations

Ethnic-region land

Required decision: customary and collective rights

Evidence status: incomplete — UNDRIP read; Law on Regional National Autonomy arts. 27–28 read; implementing legislation and grassland-tenure evidence not assembled

Next step: assemble the Autonomy Law implementing legislation and grassland-tenure evidence

Military property

Required decision: operational retention versus disposal; independent audit

Evidence status: incomplete — the governing military instruments have not been examined

Next step: examine the National Defense Law and military land regulations

Cadastre

Required decision: national verification and reconstruction

Evidence status: incomplete — no official cadastral report

identified

Next step: identify Ministry of Natural Resources registration reporting

Local-government finance

Required decision: replacement fiscal model

Evidence status: incomplete — no national revenue series in hand; Budget Law provisions not examined

Next step: assemble the Ministry of Finance fund-revenue series and Budget Law provisions

Constitutional sequencing

Required decision: interim versus permanent settlement

Evidence status: requires companion review

Next step: cross-reference the companion papers on the constitutional transition

Historical claims procedure

Required decision: limitation periods, evidentiary rules, forum

Evidence status: incomplete

Next step: compare the VermG claim deadlines and the Hungarian compensation procedure

Foreign property

Required decision: nationality and investment protections

Evidence status: incomplete — no sources assembled

Next step: identify the governing foreign-investment law and treaty obligations

Environmental land

Required decision: public ownership and conservation safeguards

Evidence status: incomplete — Constitution art. 9 only

Next step: define the public-ownership categories against the Constitution and Civil Code

Conclusion to Section VII

A Free China property settlement should not promise that every historical dispute can be corrected. It should promise three things: that every legitimate claim can be heard under transparent law; that current innocent owners will not be arbitrarily displaced; and that public assets will not be distributed through political privilege. The conversion of residential use rights proposed in Section VI can begin under those promises. The issues on this register must be resolved under them as well — each in its own forum, on its own evidence, and on a published timetable.

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Note on texts

Quotations from Chinese, German, Russian, Czech and Mongolian instruments are the paper's own translations unless an official English text is cited. The 1990 Interim Regulations and the

Vermögensgesetz are quoted from their current consolidated texts. Press reports are cited as press reports; figures given on an official tally are identified as such in the text.