

World News

Has China Restored Private Land Ownership?

By Donald Clarke

When the Chinese Communist Party assumed control over mainland China in 1949, it did not follow Russia's Bolsheviks in immediately abolishing the private ownership of land. In the countryside, a violent land reform movement brought a change in owners, but not in the ownership regime itself; full collectivization did not occur until the late 1950s. In the cities, both owners and the ownership regime, at least for residential property, were initially left untouched. Over the years, however, government policies chipped away at the rights of landowners until, by the end of the Mao Zedong era, private ownership existed in name only. With the promulgation of a new constitution in 1982, all urban land was declared state-owned. Since then, state ownership of urban land has been considered a pillar of Chinese socialism.

If the first 30 years of the People's Republic saw the gradual erosion of private ownership and the growth of state ownership, the last 20 years have seen the opposite trend. By the late 1980s, the state was looking for ways to marketize land use and raise money, and so—in a process that began experimentally in 1988 and was formalized in law in 1994—it began selling long-term leases to urban land, known as land-use rights (LURs). LURs for residential use could last for up to 70 years; for commercial use, 40 years; and for all other uses, 50 years. Buyers, made a one-time payment up front, and the land would revert to the state at the end of the term. Beijing could thus accomplish its goals of marketization and fund-raising, while maintaining that nothing had changed about the land ownership regime: the state could say it still owned the land, and had sold merely the long-term rights to its use. In substance, these LURs were virtually identical to the long-term leases of capitalist economies. They were tradeable, subject to use restrictions akin to ordinary zoning regulations, and compensable if expropriated by the state.

Predictably, LUR holders soon began to lobby for more. They complained that the rules about what would happen at the end of the term were unclear, and questioned whether they would have to pay for a renewal. In fact, the rules were quite clear: payment for a 70-year LUR bought one 70 years of use—no more and no less. But holders wanted free renewals, and as the American writer Upton Sinclair famously said, "It is difficult to get a man to understand something, when his salary depends upon his not understanding it." Eventually the political pressure became such that the 2007 Property Law declared that residential LUR renewals would be "automatic." But instead of solving the problem, this only muddied the waters. The property law did not define what "automatic" meant: most crucially, it did not state whether LUR-holders would have to pay a new fee. That issue is crucial because an automatic renewal without the need to pay any fee effectively abolishes the time limit on the LUR. And an unlimited LUR is identical to the full private ownership known as fee simple in the United States.

The first batch of 70-year LURs granted in the early 1990s will expire in about 45 years. If the holders of those rights contemplate selling them ten years from now, they will have only a 35-year right to sell. How much will buyers pay for that? These calculations seem to have lent a new urgency to the demands of LUR-holders for a clear and favorable statement of their rights.

OWNERSHIP IN ALL BUT NAME

It is that statement that Chinese citizens heard from Li last March. In response to a reporter's question about what would happen when the 70-year LURs expired, Li said:

There's an old saying in China: Economic security brings peace of mind. . . . [T]he term can be renewed, there is no need to apply for renewal, there will be no pre-conditions, and there will be no effect on the ability to buy and sell. Of course, some people may say, "That's what you say, but is there any legal guarantee?" Let me stress this here: the State Council has already tasked the relevant departments with urgently studying the laws relating to the protection of real estate and coming up with a proposal.

This is momentous. Land ownership has traditionally been a central concern of revolutionary communist regimes, from the Bolsheviks to the Khmer Rouge. Few if any such regimes, once having nationalized land, have privatized it again. Yet with no fanfare, the Chinese government has in effect announced the end of a land regime that has been formally in place since 1982 and informally in place for decades before that.

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In political terms, this suggests that socialism as a limiting ideology—a set of powerful symbols determining political sacred cows and third rails—is dead in China. In 2005, when the 2007 property law was being drafted, an open letter

from a single leftist professor denouncing it for failure to label public property as "sacred" was enough to stall its progress toward enactment for more than a year. In 2017, Li's announcement did not raise a ripple: it seems that many Chinese citizens no longer care about the symbols or the substance of socialism, at least when it comes to property. This means that in policy terms, anything is possible; the only constraints are what the leadership can do and what it wants to do.



Chinese President Xi Jinping and Premier Li Keqiang arrive for the opening session of the National People's Congress in Beijing

THE PATH FORWARD

The immediate economic effect of full private ownership will likely be to make land prices higher and more stable: higher because what used to be a right to 70 years' use has now become a right to perpetual use, and more stable because the market no longer has to guess the government's intentions about renewals. The effect should not, however, be large. If an asset's future earnings are discounted at 5 percent annually, for example, the present value of a 70-year right to the asset is worth more than 97 percent of the value of the asset held in perpetuity.

More critical is the question of how local governments will continue to raise money. Local governments depend on LUR sales to fund their operations: such sales account for fully 27 percent (some sources suggest 35 percent) of their revenues. Some way must be found to make up for the loss of revenue that would result from the renewal of residential LURs without charge.

One answer to this problem is a residential property tax. Unlike many other countries, China does not levy a periodic tax on the value of residential real estate. Many Chinese policymakers think doing so would be a good idea, but so far their ideas have not gained enough traction to be enacted. To be sure, a property tax is not a perfect answer. The current system of LUR sales allows local governments in effect to collect 70 years' worth of payments for land up front, and property taxes on existing LURs cannot possibly bring in so much money. Nevertheless, the abolition of renewal fees may be just what is needed to make this idea a reality.

Finally, it is worth considering what the new urban land ownership regime will mean for the rural land ownership regime. China now has two distinct land ownership systems; rural land is regulated under completely different principles from those that govern urban land. It is formally owned not by the state, but by sometimes ill-defined collectives. Farmers can have use rights of up to 30 years. For rural land to be transformed into fully marketable LURs, it must first be nationalized, with compensation based in theory on its agricultural value currently going to those who farmed it, even if that amount is well below the market value. That price differential has made rural land takings tempting to any official or developer who can get a piece of it, and the resulting social disruption has been roiling Chinese society for years.

If the urban land ownership regime can be simplified in this way, with perpetual ownership rights and a real estate tax, the precedent could clear the way for a similar simplification of the rural land ownership regime, or even a unification of the urban and rural systems. If done properly, such a reform could reduce the role of government officials as middlemen in land transactions, and thus reduce opportunities for rent-seeking and arbitrage of price differentials.

Whatever happens, it is clear that in one innocuous-sounding sentence, Li has set in motion a fundamental transformation of the relationship between Chinese property holders and the state.

Kashmir Conflict Shifts with Top Militant Vowing Fight is for an Islamic State

Zakir Musa, a highly influential commander, distances himself from 70-year-old separatist movement and aligns himself with ideals of al-Qaida



An policeman throws a tear gas shell at Kashmiri protesters demonstrating against Indian rule in Srinagar, Kashmir

A serious rift has emerged within the decades-old insurgency against Indian rule in Kashmir, with a top militant commander vowing to establish an Islamic system in the disputed Himalayan region and repudiating the goal of an independent nation.

Zakir Musa, the commander of Kashmir's largest anti-India militia, has explicitly distanced himself from the 70-year-old independence movement in the valley as well as from elements who wish to merge with Pakistan, declaring his fight is "exclusively for Islam, so that Sharia [Islamic law] is established here".

The pronouncements, issued in audio statements posted on social media in the past weeks, signal a growing ideological divide between Kashmir's old guard of separatist leaders, their traditional sponsor Pakistan, and a new, social-media savvy generation of rebels heavily influenced by radical Islam.

Musa, 22, has emerged in the past year as the leading face of the ongoing militancy in the Indian-controlled section of the former princedom that was divided between India and Pakistan in 1947 and is still claimed by both.

He succeeded another militant, Burhan Wani, as the commander of the militant group Hizbul Mujahideen. Wani's death last July in a clash with Indian soldiers triggered weeks of protests that paralysed the valley. Security forces killed more than 90 civilians and injured around 15,000, many permanently blinded by pellet guns.

Musa is part of a new generation of anti-India fighters whose numbers are small — roughly 210, according to police estimates — but who enjoy strong support among the public, and whose exploits and opinions are widely shared on social media.

In a video statement circulated online in March, the bearded, softly-spoken Musa appealed to protesters such as the Pulwama students "not to fall for nationalism". "I see that many people in Kashmir are engaged in a war of nationalism, which is forbidden in Islam," he said.

The fight in the region should "not be for the sake of Kashmir," he said. "It should be exclusively for Islam so that Sharia is established here."

Appropriating the slogan of Al-Qaida in the Indian Subcontinent, a local branch of the terrorist group, an unnamed militant is shown telling villagers: "This war is for Sharia or shahadat (martyrdom)." "Pakistani flag is not part of Sharia," he says. "Why do you wave the Pakistani flag? Anyone who waves the Pakistani flag will be our enemy."

The militant praises the Taliban "because [it] wants an Islamic system in Pakistan", adding: "We do love Pakistan because that country was created in the name of Islam. But there is no Islam [there] at present, so we are unhappy with it. We have to do jihad with Pakistan as well." Before his death, Wani had appeared to drift towards the rhetoric of global Islamist movements such as al-Qaida, calling in 2015 for a "caliphate [to be] established in Kashmir". But he had

stopped short of disowning the independence movement or criticising Pakistan.

The hardening position of the militant group has put pressure on older leaders, some of who took up arms during the first wave of militancy in the 1990s, but have since turned to politics to achieve their ends.

All Parties Hurriyat Conference, an alliance of Kashmiri separatist groups comprising the traditional leaders of the movement, issued a careful press release that appeared to distance itself from the militants' comments. "Terrorism and freedom movement are poles apart," it said. "Our movement has nothing to do with these world level groups [Islamic State and al-Qaida] and practically they are non-existent in our state."

Their statement drew a response from Musa labelling the leaders of the alliance hypocrites and warning he would "chop off their heads and hang them at Lal Chowk" — a main street in Srinagar — if they became "a thorn in our way to establishing Sharia".

After Hizbul Mujahideen's supreme leaders in Pakistan distanced themselves from his comments Musa announced he had quit the movement.

Indicating the tension around the dispute, one senior separatist leader abruptly terminated an interview with the Guardian when pressed on the issue. "Everybody wants India to quit Kashmir, that is a collective voice, whether it's young, old, this is the message," he said.

"In every movement, every society, in every nation, there are different thoughts ... We have said and we will reiterate it: let the people first decide, the right of self-determination, what they want, then people can decide themselves about the system."

In his office in Srinagar, Vaid said the embrace of a more radical ideology by Musa's militants presented an opportunity for authorities to peel away their public support. "The average person in the valley is not a radical," he said. "If militants take this course, people will definitely get alienated from them."

Ayesha Siddiqi, an expert in Pakistan military policy, said the shift towards global jihadi ideology reflected "a lot of disappointment with Pakistan by these militant groups".

She said the supply line between Islamabad and Kashmir "was cut, or at least had a sizeable reduction" in the years after the 11 September 2001 terrorist attacks, as Pakistan came under pressure to abandon its support for overseas militancies.

"There has been the realisation [among militants] that Pakistan is another country, and ultimately it will compromise based on its national interest," Siddiqi said.

She said the argument between Musa and older leaders was "a very interesting debate worth watching". "If it gets popularised, it will completely change the character of the Kashmir struggle, which was secular, to something that a lot of people would not want," she said.

Kashmir conflict ebbs as new wave of militant emerges

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