

State-Building and Land Nationalization in China and Vietnam: 1976–1982

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Abstract: The paper uncovers the historical origins of China and Vietnam’s contemporary land ownership regimes. Using newly available historical archives in Vietnam and materials collected in China, the author traces the roots of the land ownership regimes dating back to the constitutions passed in both countries in the early 1980s. The sequence of state-building, economic reforms, and constitution-making led to the divergence in land ownership in the two countries, i.e., a dualist ownership system in China and a unitary system in Vietnam. The paper demonstrates that China’s dualist land ownership system did not emerge as the state’s deliberate effort to monopolize the urban land market. Thus, it cannot be explained by China’s generally stronger state power vis-à-vis society compared to Vietnam. Instead, the Chinese party-state’s more cautious decision at the critical juncture of constitution-making produced an unexpected and likely unintended dualist regime that proved especially useful for later land expropriation and fiscal extraction. In Vietnam, the nationalization of all land arose from the state-building process amid the Third Indochina War. The arrangement instead turned out to be less beneficial to the party-state as economic reforms deepened. With the cases of two communist countries, the study brings new insights to the literature on war, state-building, and fiscal capacity.

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Why do countries diverge in land property regimes? Previous studies attribute the variations to colonial legacies (Acemoglu, Johnson, and Robinson 2001; Boone 2014, chap. 2) and power dynamics between national and local leaders (Baldwin 2014) and between the state and various social actors. (Albertus 2021) The literature tends to emphasize the strategic choices of the state/colonizers in determining land property regimes, with the aim to maximize their extractive capacities while maintaining political power. (Levi 1988) However, institutional arrangements that once benefit the state may turn against them at a later stage. In this paper, I trace the constitutional origins and evolutions of the land ownership regimes in China and Vietnam. It details how the state-building efforts and power dynamics at a critical juncture led to divergent land property regimes and affected the long-term extractive capacities of the state. Different from what we know about war, state-building, and state capacity in the contexts of modern Europe, (Tilly 1992) in the two cases of this study, the apparatus of extraction created at the critical juncture show unexpected effects on the fiscal capacity after the mode of economic management and resource extraction goes through systematic changes. To explain the changing effects of the apparatus, the study highlights the ideological factor and historical contingency. The findings will shed light on the different paths to modern fiscal states in transitional communist countries.

In the sections below, I first compare China and Vietnam's contemporary extractive land regimes and lay out the research question. Then I discuss possible theories to explain the divergent ownership regimes in the two countries. After that, I trace the changes to land ownership in the constitutions of the two countries. There, I look closely at the legislative processes of the 1980 Constitution of Vietnam and the 1982 Constitution of China, which have laid the foundation of the current land ownership regimes. Ultimately, I discuss the implication

of the two cases for the study on state-building and state capacity.

Contemporary Land Regimes and Fiscal Extraction in China and Vietnam

Both China and Vietnam have experienced rapid economic growth and rising inequality over the past four decades.(Malesky, Abrami, and Zheng 2011; Malesky and London 2014) More and more studies highlight the importance of land regimes in this process. With their unique property regimes, governments in the two countries can expropriate land and offer them at low prices to attract investment,(Labbé and Musil 2014; Tao et al. 2010) gain fiscal revenues and other resources for infrastructure construction(Liu and Zhang 2020; T. B. Nguyen et al. 2017; C. Zhang 2021) and maintain macro-regulation of the economy.(Rithmire 2017) But on the other hand, the land regimes also lead to conflicts between the state and land users in both countries, particularly during land expropriations.(Guo 2001; Cai 2003; Kerkvliet 2014; Phuc, Westen, and Zoomers 2014; Mattingly 2020)

Although both communist party-states leverage the land regimes for land expropriation and economic growth, the Chinese party-state gets much more revenues from land than its Vietnamese counterpart. Figure 1 shows the ratios of land revenues to total fiscal revenues in the two countries from 2015 to 2021.(Ministry of Finance of China 2016; 2017; 2018; 2020; 2021; 2022; General Statistics Office of Vietnam 2020, 209; 2021, 209; 2022, 205) In 2021, 28.5% of the fiscal revenues of the Chinese government came from land sales, reaching 8.7 trillion Chinese yuan (1.4 trillion USD).(Reuters 2022) These revenues are the lump-sum payments that land users have to pay the government to obtain land use rights for a specific time (or sometimes permanently in Vietnam), distinct from annually paid property taxes. In the same year, 14.6% of Vietnam's fiscal revenues were from land and houses, a broader category that includes land sale revenue, rent from land leasing, and land use tax. Moreover, Chinese local governments often

use unsold land as collateral to borrow money from banks and issue bonds, gaining more income from land than shown in figure 1.(Gyourko et al. 2022) In Vietnam, however, the reliance on land-based revenues is weaker, particularly in big cities with vibrant economies. For example, in Ho Chi Minh City, from 2011 to 2020, the total land use fees (similar to land sale revenues in China) accounted for only 4.26% of municipal budgetary revenues.(The Saigon Times 2021)

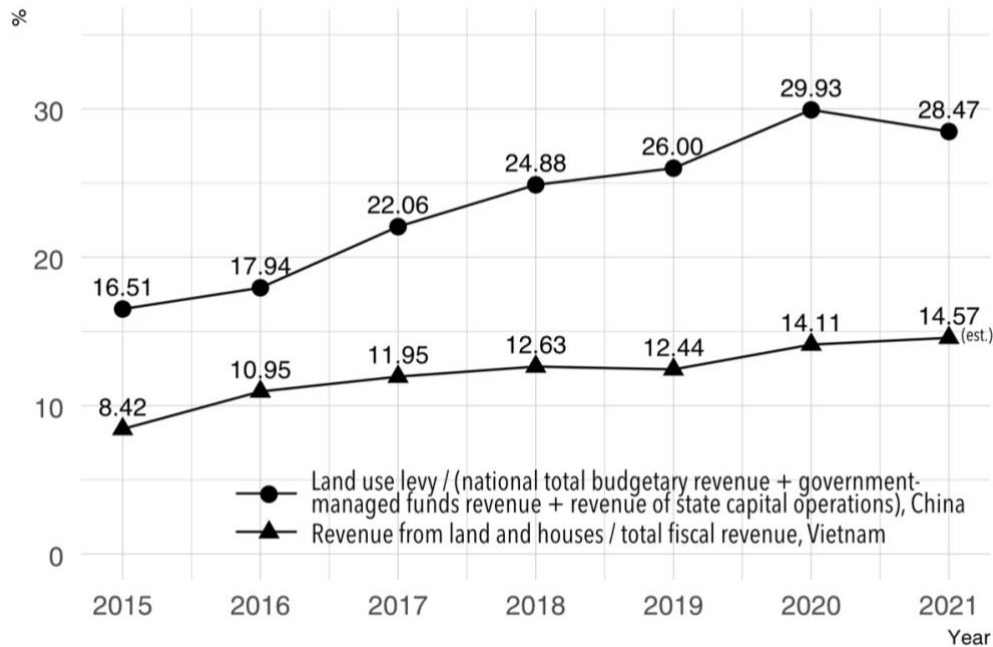


Figure 1. The ratio of land revenue to total fiscal revenue in China and Vietnam, 2015-2021 (%)

The variation in fiscal revenues from transferring land use rights leads to disparate budgetary capacities of the two governments. Compared to its Vietnamese counterpart, the Chinese government has stronger fiscal capacities, as illustrated in figure 2. In 2021, the fiscal revenues of the Chinese government equaled 26.6% of the country’s gross domestic product (GDP), whereas in Vietnam, fiscal revenues amounted to only 18.5% of its GDP.² More than half of the gap between the two countries could be explained by the difference in land sale

² China’s GDP data is from (National Bureau of Statistics of China n.d.) Vietnam’s GDP data is from (General Statistics Office of Vietnam 2022, 192) The data of fiscal revenues is from (Ministry of Finance of China 2016; 2017; 2018; 2020; 2021; 2022; General Statistics Office of Vietnam 2020, 209; 2021, 209; 2022, 205)

revenues: the land-based revenues in China and Vietnam equaled 7.6 and 2.7 percent of their GDP in 2021, respectively.

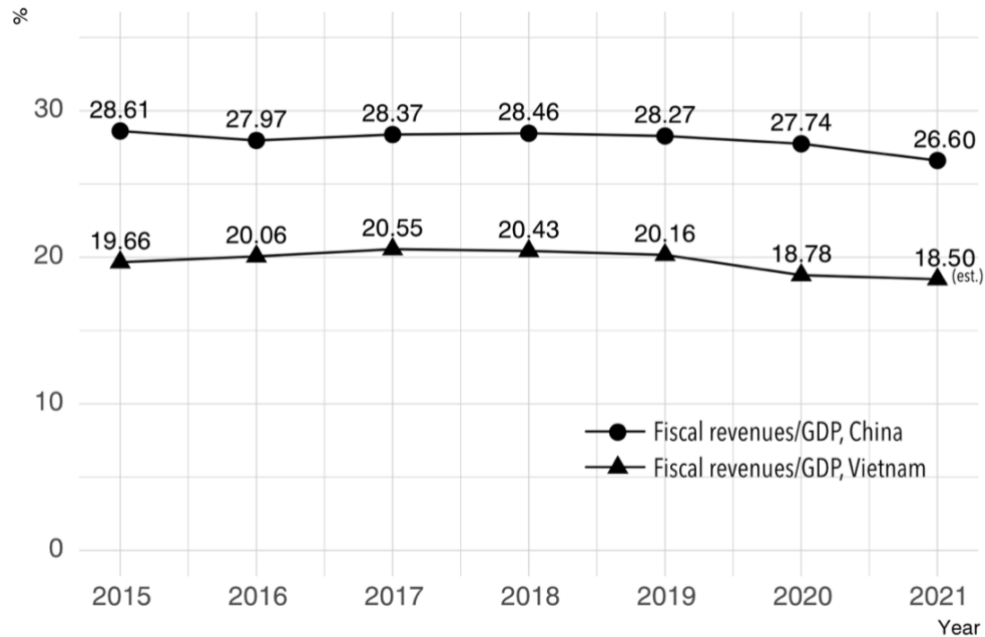


Figure 2. Ratio of fiscal revenue to GDP in China and Vietnam, 2015-2021 (%)

Why do the two countries, which to many are similar communist countries where land is owned by the state, (Kim 2008, chap. 6) differ sharply in the proportion of fiscal revenues extracted from land? Before digging into the variation, I first introduce the general pattern of gaining land revenues in China and Vietnam. In both countries, the government's revenues from land originate from the price gap between land expropriation and land selling. Land in both countries is in name owned by the public, and any citizens or enterprises only have land use rights. For public interests, the state can expropriate land from the current land users and provide limited compensations for them. (Ho and Lin 2003; T. T. Truong and Perera 2011; Labbé and Musil 2014) Furthermore, the state in both countries has significant power to define how a piece of land is used, and any conversion from agricultural use to construction has to be approved by the state. (T. T. Truong and Perera 2011; Labbé and Musil 2014; Phuc, Westen, and Zoomers

2014; H. L. Nguyen, Duan, and Zhang 2018) Thus, the vast price gap between different types of land motivates local governments to expropriate a large amount of land from farmers at low costs and transfer the land use rights to real estate developers at much higher prices.(Tao et al. 2010; Tan et al. 2011; N. Truong 2021, chap. 5) As one can imagine, the large-scale land expropriation has led to many conflicts between local governments and villagers in both countries, but also brought massive revenues to the governments.

However, the two governments diverge in their monopolistic power over the land market for urban construction, stemming from the different ownership systems in the two countries. In China, urban land is in name owned by the state, and village collectives own rural and suburban land, creating a “dualist” system. Instead, in Vietnam, there is no parallel distinction between “rural” and “urban” land, and all land is owned by the entire people represented by the state.(H. L. Nguyen, Duan, and Zhang 2018)

In contrast to the assumption that the state ownership of *all* land is most favorable for fiscal extraction, China’s dualist land ownership system strengthens the state’s monopolistic power over the urban land market and, therefore, its capacity to gain land revenues. Since collectives own rural land, only collective members, e.g., villagers, can have land use rights in the collective, either of farmland or residential land for housing. The setting limits the transferability of rural land. An example is the so-called “small property” houses in China, i.e., houses built on rural land and sold to buyers outside the village collective.(Qiao 2017) The “small property” rights are ambiguous and less protected by the government than those of properties on state-owned urban land. To legally enter the urban land market for construction, collective land must first be expropriated by the state and turned into “urban” land. By limiting the transferability of collective land, the state monopolizes the primary urban land market and

captures the increase in land value during rapid urbanization.

Instead, since the state owns all land in Vietnam, individuals and organizations can pay for land use rights in suburban and rural areas across the country. It creates a booming land market encompassing the rural and the urban, particularly for residential land.(Harms 2012) Thus, even though the state still monopolizes the power to sanction land conversion from agricultural use to construction, leaving room for rent-seeking, the system places few constraints on residential land transactions. The unitary land ownership system weakens the monopolistic status of the state in the land market for construction and thus limits the land use fees they can get compared to the Chinese government.

Then, the apparent prior question is: What explains the difference in land ownership between the two countries? Why is the current land regime in China more favorable to the party-state than the Vietnam system? In the section below, I discuss why the dominant literature on land property rights and comparative studies on China and Vietnam cannot explain the difference. Instead, I propose a theory highlighting historical contingency and ideological beliefs to explain the institutional divergence. After that, I will present the archival data in detail and trace the process of constitutional change to collaborate my argument.

Explaining Divergent Land Ownership in China and Vietnam: Theory and Data

One potential theory to explain the more pro-state land ownership regime in China than in Vietnam is the generally stronger state power vis-à-vis society in China. Most researchers agree that compared to China, the state power of Vietnam is more fragmented and constrained.(Malesky 2021) For example, students of labor politics demonstrate that the party-state in Vietnam is less suppressive on wildcat strikes than its Chinese peer.(Clarke and Pringle 2009; Chan 2011; Siu and Chan 2015) Tuong Vu traces the history of state formation in China

and Vietnam and argues that the history of state formation created a more cohesive state in China than in Vietnam, conducive to effective development policies.(2010) Malesky, Abrami, and Zheng study political institutions and demonstrate that the governing coalitions in Vietnam are broader and more diverse, and there is more electoral competition than in China.(2011) As a result, the power dynamics lead to less inequality in Vietnam compared to China.

In her dissertation on land expropriation and political responsiveness in China and Vietnam, Nhu Truong takes a similar approach and demonstrates that due to the history of the party and state formation, the Vietnamese state is more responsive to land-related unrest and creates more institutional checks on land expropriation.(2021) The approach echoes studies in land property regimes which focus on power relations and the state's strategic decisions.(Acemoglu, Johnson, and Robinson 2001; Baldwin 2014; Boone 2014, chap. 2) For example, Michael Albertus argues that authoritarian governments often intentionally withhold rural land rights to maintain peasants' dependence on them. The party-state in China is an example other than his main cases in Latin America.(2021)

However, even though the dualist land ownership in China turned out to be more favorable to the state, the original regulations in the constitutions could not be explained by the more despotic state power in China compared to Vietnam. With historical archives, I demonstrate that the more restrained strategy of the Chinese party-state produced the dualist land ownership system. In contrast, in Vietnam, state-building and resource extraction efforts, intensified by the Third Indochina War and guided by communist ideological beliefs, produced a unitary land ownership system that later limited the party-state's fiscal capacity.

The evolution of fiscal capacity in Vietnam contradicts the bellicist model of state formation and state-building. In Charles Tilly's account of the rise of European nation-states,

interstate wars required the concentration of coercive power and capital. To fight wars, states built apparatus to extract workforce and materials from the society, which remained effective and boosted state power after the wars.(Tilly 1992) As Tilly writes, “a major war effort generally produced a permanent expansion of the state’s central apparatus - the number of its full-time personnel, the scope of its institutions, the size of its budget, the extent of its debt.” He argues that state power persists for three reasons: increased state power leads to new extractive capacity, war causes or reveals new problems, and wartime debts require repayment.(Tilly 1992, 89)

Permanent expansion of state capacity relies, however, on the apparatus for accumulation and extraction remaining effective, despite political and economic change over time. Unlike pre-1900 examples of capitalist economies in modern European, we witnessed many economic administration and development strategies guided by different ideologies, particularly in later developers, during the twentieth century.(Gerschenkron 1962) These strategies underwent substantial changes or were overthrown entirely, leading to significant changes in the economic landscape. State-directed planned economies were stark examples.

Guided by a belief in an alternative non-capitalist way to accumulate and extract resources,(Tilly 1992, 16–33) communist parties have often been inclined to nationalize means of production, including land, especially during crises. A key early example, of course, was Lenin’s adoption of “War Communism” in the immediate aftermath of the October Revolution.(Malle 1985) Therefore, under the extreme pressure of the Third Indochina War, the Vietnamese government decided to nationalize *all* land in the country. Under very different circumstances, but at almost the same time, China’s 1982 constitution was drafted at a moment when communist ideology was undermined after the Cultural Revolution. Meanwhile, the Chinese state faced nothing like the kind of war pressure endured by its Vietnamese counterpart.

Accordingly, the Chinese government only initiated partial nationalization, i.e., nationalizing only urban, *but not rural*, land.

Later, when economic liberalization intensified and industrialization took off in both countries, the political significance of land and the channels to extract fiscal revenue from land changed dramatically. Agricultural outputs were no longer the only (or even the most important) resources one could extract from land. Rather, profits derived from transferring land from agricultural to industrial or commercial uses became enormous. This political-economic reshuffling changed how the state and landowners could make a living from the land.

During their economic transitions, Vietnamese and Chinese land nationalization—that once facilitated agricultural extraction—gave way to more pragmatic regulations of land property rights. Land ownership remained in either the hands of the state or collectives, but these entities assigned land use rights to families and enterprises at little or no cost to stimulate production and investment. With sustained economic growth and rising land prices, individuals or collectives could profit from selling their land use rights. Under Vietnam's state land ownership system, all land got roughly equal status in the market. Therefore, when the state allocated land use rights to individuals and enterprises, it inadvertently created numerous competitors in the future urban land market. However, in China, the dualist land ownership system provided a convenient method for the state to segregate different land markets and monopolize the most lucrative one, namely the urban land and real estate market.

Thus, dissimilar progress in state-building and land nationalization in the two countries led to opposite outcomes to what the communist parties and constitution-makers expected. Figure 3 shows the differences between these two cases and the bellicist theory of state capacity.

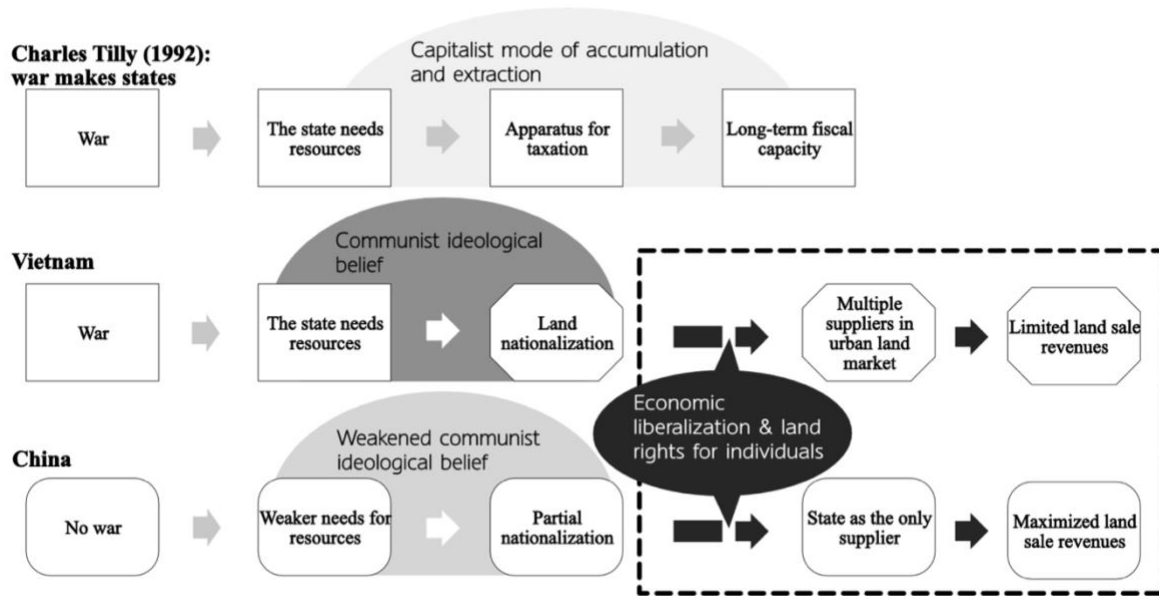


Figure 3. War, state-building, and land sale revenue in China and Vietnam

The constitution-making processes from 1976 to 1982 exemplify how ideological beliefs and power dynamics at critical junctures can have long-term effects on fiscal capacity. At the critical juncture, the communist party leaders had different options, and exogenous changes significantly impacted the foundational institution decided by a small group of people. (Capoccia 2016; Collier 2022) The newly available archival data in Vietnam enables us to better understand the important moment in the country and conduct detailed comparisons with the case of China.

I draw on Chinese, Vietnamese, and English materials in the study, including archives, policy documents, and academic literature. As for Vietnam, I use newly available historical archives of the National Assembly, Prime Minister's Office, and other government agencies, most of which are stored in the National Archives Center No.3 in Hanoi. (Path 2020; H. M. Vu 2022) Unfortunately, similar archival data is not available to researchers working on China. So instead, researchers have utilized memoirs, publicized policies and party documents, and limited historical archives available to study the history of the 1982 Constitution and land ownership. (Xu

2005; Cheng 2013; Zhou 2013; Peng 2018; Tian 2022) Drawing on their works, publicized party and government documents, memoirs, and other materials I have collected in Vietnam and China, the study presents the first detailed comparison of the history of land nationalization and constitution-making in the two countries.

Antecedent Conditions: Land Ownership in Constitutions Before the Late 1970s

The first Constitution of the People's Republic of China (PRC) was passed in 1954, five years after the Communist Party of China (CPC) came to power. In the 1970s, during or under the influence of the Cultural Revolution, the constitution was revised twice, one in 1975 and the other in 1978. In North Vietnam, i.e., the Democratic Republic of Vietnam, there were two Constitutions, one promulgated in 1946 and the other in 1959.(Sidel 2009)

In the constitutions of both countries before the 1980s, no articles directly stipulated state ownership of land. In the first constitution of the PRC, adopted in 1954, Article 8 stated, "The state protects according to law the right of peasants to own land and other means of production."³ The protection of peasants' land ownership was consistent with the clause on multiple types of ownership of means of production. At that time, before the agricultural collectivization movement, the Chinese Constitution acknowledged various types of ownership in the country, including state ownership, collective ownership, individual ownership, and ownership by capitalists. Only unused land was declared to be solely owned by the state. In the 1975 Constitution, adopted during the Cultural Revolution, individual and capitalist ownership of means of production was deleted. It stated that there were *primarily* two types of ownership of means of production in China: state ownership (i.e., ownership by the whole people) and

³ Here I use the translation by the Foreign Languages Press in Beijing. See (Committee on Internal Security, House of Representatives 1971, 414)

collective ownership by laborers. But still, the constitution did not declare state ownership of land, and it only stated that “the state may buy, requisition or nationalize land and other means of production in both cities and countryside according to provisions of law,” which also appeared in the 1954 Constitution and the 1978 Constitution with slightly different terms. Although the article granted the state the power to nationalize land under certain circumstances, it also suggested that all three constitutions did not exclude land ownership of non-state entities and individuals.(Zhou 2013, 132–37)

In Vietnam, similarly, the constitution before 1980 stipulated multiple types of land ownership. The 1959 Constitution, as Phuong-Khanh Nguyen argues, was “modeled after the 1954 Chinese Constitution” and “explicitly communist in character.”(P.-K. Nguyen 1981, 347) Its articles on land ownership were very similar to the 1954 Constitution of China. For example, Article 14 stated, “The state protects the right of peasants to own land and other means of production according to the law,” similar to Article 8 in the 1954 Constitution of China. The constitution also admitted the existence of various ownership of means of production in the country, including state ownership, cooperative ownership, ownership by individual working people, and ownership by nationalist capitalists (Article 11). Moreover, like the 1954 Constitution of China, the 1959 Constitution of Vietnam granted the state the power to take land (as a means of production) for public interests:

Only when such is necessary for the public interest does the state repurchase, requisition, or nationalize, with appropriate compensation, means of production in the city or countryside, within limits and in the conditions defined by law. (Article 20)

In short, the constitutions of both countries adopted before the 1980s left room for nationalizing land under certain circumstances. However, none eliminated collective or private land ownership or initiated large-scale land nationalization. Dramatic changes in land ownership

were only written into the constitutions in the early 1980s in both countries. In China, the 1982 Constitution stipulated that the state owns all urban land, and collectives own rural and suburban land unless otherwise specified. In Vietnam, declared by the 1980 Constitution, the whole people, represented by the state, owns all land in the territory, whether rural or urban.

Critical Juncture Triggered: Constitution-Makings from 1976 to 1982

In 1975, the Second Indochina War ended, and North and South Vietnam were formally unified in 1976. A new Constitution was needed to celebrate the unification and unify the North and South regulations. In the First Session of the Sixth Plenum of the National Assembly in June 1976, the Assembly passed a proposal to revise the 1959 Constitution. (“Lịch sử Quốc hội Việt Nam (1976–1992) [History of the National Assembly, 1976–1992]” n.d.) A 36-member Constitution Drafting Committee (CDC) was formed, and Trương Chinh, the chairperson of the National Assembly, served as the committee chair. (“Lịch sử Quốc hội Việt Nam (1976–1992) [History of the National Assembly, 1976–1992]” n.d.) The committee finished a draft within one year and a half and dispersed the draft for discussion among senior and mid-level cadres from March to May 1978. (Quốc hội 1978e) From August to October 1979, another draft was publicized and circulated among the public for discussion. (Quốc hội 1980e) In September 1980, the Politburo of the Communist Party of Vietnam (CPV) held a conference, proposed revisions to the drafts, and later submitted the constitution to the National Assembly. (Quốc hội 1980f; 1980g) On December 18, 1980, the constitution was passed in the Seventh Session of the Sixth Plenum of the National Assembly. (“Lịch sử Quốc hội Việt Nam (1976–1992) [History of the National Assembly, 1976–1992]” n.d.)

In China, after Deng Xiaoping consolidated his power and furthered reforms in the political and economic realms, he proposed to draft a new Constitution in 1980. On August 30,

1980, the Central Committee of the CPC submitted a proposal to the National People's Congress. It argued that the country had undergone significant changes since 1978, and thus a systematic revision to the constitution was needed. On September 10, 1980, the Constitution Amendment Committee (CAC) was established with the approval of the Standing Committee of the National People's Congress. Ye Jianying served as the chair of the CAC, and Song Qingling and Peng Zhen were deputy chairs. Five days later, the Secretariat of the CAC was established, and Hu Qiaomu served as the secretary-general. From the establishment of the CAC, the legislative process lasted 29 months, and the National People's Congress adopted the new Constitution on December 4, 1982.(Xu 2005, 351–52)

In both countries, new constitutions were drafted in the late 1970s or early 1980s after critical political and economic changes. Why did China and Vietnam, which shared similarities in land ownership in previous constitutions, diverge in their new constitutions? As I explain, the sequence of state-building, economic reforms, and constitution-making led to the divergence in land ownership; state-building and economic reforms shaped the power dynamics and ideological beliefs related to land nationalization in the process of constitution-making.

Debates on Land Ownership in Vietnam: 1976–1979

For the first time in the communist history of Vietnam, the constitution passed in 1980 had an article on the state ownership of land nationwide. However, the article was not added without struggles. Before the constitution was passed on December 18, 1980, multiple rounds of debate arose on the issue of land nationalization in the constitution-making process from 1976 to 1980.

The First Session of the CDC was held in July 1976, which laid out the plan of drafting the constitution without discussing specific articles.(Quốc hội 1976a) The Second Session of the

CDC, held from September 28 to 30, 1976, discussed what articles in the 1959 Constitution should be revised. The meeting's summary report included:

We do not think that [the new constitution] should write “farmers’ ownership of land (*ruộng đất*) is protected” [like in the previous constitution], but also, [we] should not neglect farmers’ rights to have a small percentage of land for cultivation and to increase the side incomes of the families.(Quốc hội 1976b)

Trương Chinh, the chairman of the CDC and the National Assembly, argued that what percentage of land should remain in the hands of farmers is “a matter of specific policies that the government decides,” not something that needed to be specified in the constitution. Leaving farmers’ land ownership out of the constitution would leave room for future land reforms and collectivization; however, leaving some land for farmers and landlords after confiscating their land could make farmers “feel assured” (*an tâm*) and landlords accept the policies of land reforms and subsequent collectivization.(Quốc hội 1976b) Trương Chinh did not make a final decision on this issue. He said in the report that the CDC would discuss the matter further after the Fourth Congress of the Party, which would be held in December 1976.(Quốc hội 1976b)

The Fourth Party Congress did not set the tone on land nationalization. Thus, land ownership was tentatively left out of the constitution.(Quốc hội 1977c) In the earliest drafts of the constitution discussed within the CDC between February and April 1977, there was no article on the state ownership of land. For example, in a draft dated March 18, 1977, there was an article that stipulated the state ownership of minerals, roads, undeveloped land, and many other properties:

Minerals, underground resources, continental shelves, forests, grasslands, unexplored land, rivers, natural energy resources, banks and insurance organizations, factories, enterprises, farms, forest farms, agricultural machinery stations, railways, roads, waterways and airways, public transport, systems of telephone, telegraphs, cinemas, radio, and television, and facilities serving public interests, and other properties that are prescribed by law as belonging to the state, are owned by the entire people and managed by the state.(Quốc hội 1977b)

The article was similar to those in the 1936 and 1977 constitutions of the Soviet Union on state-owned properties, suggesting that Vietnamese lawmakers borrowed the article from the Soviet Union's Constitution. However, the article did not include land in general, which was in the Constitution of the Soviet Union. In subsequent drafts circulated between March and April 1977, changes were made to this article on state-owned properties, but land was not added to the article.

In a meeting held in April 1977, Politburo noted there were opinions that land should be added to this article of state property, but the Central Committee had not decided on land nationalization. It would not be an issue, Politburo argued; once the Central Committee and the National Assembly decided to nationalize land, the word "land" (*ruộng đất*) would be added to the article. Even if the Central Committee agreed to nationalize land and the National Assembly could not write it into the constitution in time, land could be stipulated later as part of "other properties prescribed by law as belonging to the state" in this article.(Quốc hội 1977c)

Without a final decision from the VCP, there was a lot of back and forth on whether state ownership of land should be written down explicitly in the constitution. In a draft dated May 29, 1977, for the first time, land (*ruộng đất*) was added to this article. The article stated that land should be owned by the entire people of the country, which refers to state ownership in communist contexts, as the following:

Land, minerals, resources underground, under the continental shelf and in the sea, forests, grasslands, rivers, natural energy resources, banks and insurance organizations, industrial, agricultural, commercial, and transportation enterprises, enterprises that serve public interests, systems of railway, road, waterway and air, systems of information, communication, radio, cinema, and television, cultural and social facilities, military defense facilities, and other properties that the law stipulates as belonging to the state, are owned by the entire people.(Quốc hội 1977a)

In several subsequent drafts circulated in May and June, there were revisions to this

article. In the Third Session of the CDC held in June 1977, the constitution-makers discussed this article, Article 21, in the draft and had different opinions. Trần Bửu Kiếm, a former minister in the provisional revolutionary government in the South, said although he agreed with the general principle of state ownership of land, he suggested that to “stabilize the thoughts of farmers and not affect production plans” (*ổn định tư tưởng của nông dân và khỏi ảnh hưởng đến kế hoạch sản xuất*), the constitution should make it clear that the state permanently protects people’s land use rights (*quyền sử dụng*). Phạm Văn Bạch, the Chief Justice of the Supreme People’s Court, echoed this concern and was unsure what to write on land use so that peasants would “feel assured” (*an tâm*). Trần Quốc Hoàn, Minister of Internal Affairs, said more should be written on land use rights. Nguyễn Hữu Thọ, the Vice President of Vietnam, argued that it was unnecessary to write the state ownership of land since the state already owns the land and can take the land whenever it needs it, based on another article on the state expropriation of land. Nguyễn Xuân Yêm, the minister-in-charge of agricultural science and technology, commented that other than farmland, there should be a detailed explanation of the use rights of forest land, which mattered a lot for peasants and ethnic minorities. Trần Hữu Dực, the Prosecutor General of the Supreme People’s Procuracy, seemed perplexed by the article, saying, “What are ‘other properties that the law stipulates as belonging to the state’ [in Article 21]? Everything is already in Article 21.”(Quốc hội 1977e)

Despite the concerns, land remained in the clause. In the summary report of the Session, Trường Chinh said if the land was not nationalized, it would “hinder the planning of economic zones, redistribution of labor throughout the country, and reorganization of production towards socialist large-scale production.” Moreover, stipulating the state ownership of land would prevent people from occupying land for private interests, e.g., taking land to build houses or raise

fish, reducing agricultural outputs.(Quốc hội 1977e)

In late June and early July 1977, the Central Committee of the CPV met and discussed the five-year plan of agricultural development.(Đảng Cộng Sản Việt Nam 2004a, 138–295) In the meeting, as Trường Chinh noted later in a report, some committee members from the south again raised the concern that nationalizing land would affect peasants’ motivation for agricultural production.(Quốc hội 1977d)

The disagreement within the party and the problems the new regime faced in the rural south pushed the CPV to drop the stipulation on state ownership of land in the draft constitution. Previous studies have shown that the communist party faced difficulties in land reform and collectivization on the ground.(Kerkvliet 2005, chap. 5; Dang 2010) In a handwritten report in the Fourth Session of the CDC on December 28, 1977, Trường Chinh noted state ownership of land would not be in the draft constitution.(Quốc hội 1977f) On December 31, a report was submitted to Politburo for discussion, in which Trường Chinh explained why he believed land should not be nationalized. He noted many middle peasants in the south were still earnest with their land ownership and unwilling to join cooperatives. Stipulating state ownership might have negative impacts on agricultural production.(Quốc hội 1977d) His opinions were restated in the Fifth Session of the CDC from January 16 to 18, 1978.(Quốc hội 1978d)

In the typed draft constitution dated January 16, 1978, “land” (*ruộng đất*) in general was no longer in the article on state-owned properties. Only undeveloped land was stipulated to belong to the state. Instead, a new article was added on land (*ruộng đất*), which said:

Land under any form of ownership shall be uniformly managed by the state according to the general master plan and [specific] plans.(Quốc hội 1978a)

This article admitted the multiple types of land ownership in the country and indicated that lawmakers gave up nationalizing all land through the constitution. Wary that state ownership

of land would bring conflicts with farmers and limit agricultural outputs, the CPV made concessions to the farmers regarding land ownership, at least on paper.

On February 4, 1978, the Politburo announced the plan to solicit comments on the draft constitution among senior and mid-level cadres.(Đảng Cộng Sản Việt Nam 2004b, 57–62) In the meeting with these cadres on February 23, 1978, Trường Chinh gave a detailed explanation on why the party decided not to nationalize land in the constitution. He argued that the draft constitution did not nationalize all land for two reasons. First, he noted that collectivization had just started in the south, where peasants were still “earnest with their land” (*có the thiết với ruộng đất của họ*). They were unaware that collectivization was good for their long-term interests, and many middle peasants were unwilling to join the cooperatives with their land and means of production. Thus, the draft constitution not only left room for the private ownership of land but also outlined the future goal of “socializing” land through nationalization and collectivization. Secondly, Trường Chinh explicitly discussed the two ways of socializing land, one as nationalization and the other as collectivization. He argued that in the north, when land reform and land collectivization were conducted, different from the Soviet experience of nationalizing all land, collectivization was found more suitable for the situation in Vietnam. Building on that experience, Politburo discussed and agreed that the co-existence of the three types of land ownership (i.e., state ownership, cooperative ownership, and private ownership) fit with the situation in Vietnam.(Quốc hội 1978a)

From March to early May 1978, the draft constitution was publicized for comments and suggestions from senior and mid-level cadres. According to a summary report, 44,541 cadres in total participated in the discussion and contributed 240,483 comments.(Quốc hội 1978c) Among them, some raised concerns about the stipulation on land ownership in the draft and suggested all

or most land should be owned by the state.(Quốc hội 1978b) These comments did not directly lead to the change on land nationalization in the constitution; the drafts circulated in late 1978 and early 1979 still did not stipulate state ownership of land. But different types of ownership were acknowledged in these drafts.(Quốc hội 1978a)

In a draft dated March 15, 1979, land was again added by hand to the article on state-owned property. Moreover, the word used was not agricultural land or paddy field land (*ruộng đất*) but a more general term of land (*đất đai*), which included various types of land. In the typed draft dated May 9, 1979, land (*đất đai*) was also in the article.(Quốc hội 1979a) In the subsequent drafts circulated in 1979 and 1980, the article was revised several times; there were changes back and forth on whether the word “*ruộng đất*” or “*đất đai*” should be used in this article.(Quốc hội 1979a; 1979b; 1979c; 1980c; 1980a; 1980b; 1980d) Nevertheless, land remained in the clause, confirmed in the constitution finally passed on December 18, 1980.

The Third Indochina War and Land Nationalization in Vietnam: 1979–1980

Why was the state ownership of land again added to the drafts in March and May 1979? In December 1978, the People’s Army of Vietnam invaded Cambodia and quickly destroyed most of the Khmer Rouge’s forces. Partly as a response to Vietnam’s invasion and occupation of Cambodia, China crossed the border and attacked Vietnam in February 1979. In mid-March, China declared victory and withdrew from Vietnam, but military conflicts between the two countries continued at the border.(X. Zhang 2015) For the next decade, the Vietnamese Communist Party had to fight a two-front war against the remaining forces of the Khmer Rouge in Cambodia and the Chinese army at the northern border.

There were different explanations for why Vietnam decided to invade Cambodia in December 1978, e.g., as a response to the Khmer Rouge’s attacks, motivated by the ideological

drive to spread communism, nationalism, or human rights abuses in Cambodia.(H. M. Vu 2020, 11–21) Kosal Path demonstrates one crucial reason for Vietnam’s invasion was its domestic economic crisis after 1976 and the rapidly diminished foreign aid after the war with the United States ended. He argues that the invasion was an effort to cement the Vietnamese-Soviet alliance and draw assistance from the Soviet bloc.(Path 2020, chap. 2) However, China’s response and invasion were not expected by the Communist Party of Vietnam, and it pushed them to militarize the whole nation and mobilize all resources to fight a two-front war. The strategic goals of the CPV, therefore, switched from a balance of economic development and military defense before the war to total mobilization for defense.(Path 2020, chap. 3)

According to reports by the Vietnam side, China’s invasion destroyed thousands of facilities and about half of the 3.5 million people in the six border provinces lost their homes. As a response, the government was assigned three tasks: accommodating the living needs of the people, strengthening the military built-up along the border, and “instilling new thinking in the government and party apparatus, a shift from a peace to a war mentality.”(Path 2020, 89–90) As part of the efforts to prepare for and fight the war, starting from 1978, the CPV strengthened law enforcement to cleanse internal “bad elements” in the country, including those involved in bribery, avoidance of military duty, and refusal to relocate to mountainous and inland areas (e.g., the New Economic Zones) as designated by the state.(Path 2020, 96)

Besides control of society, the war also affected how the state organized agricultural production and extracted resources. By early 1978, Vietnam had decided to invade Cambodia and topple the Pol Pot regime.(Path 2020, 73) In preparation for the war, in August 1978, at a conference on agricultural collectives, CPV leaders noted that the country faced “a new situation” in which China was “inciting” Cambodia to have a border war against Vietnam. The

new situation required the CPV to speed up agricultural transformation in the south, including a big wave of collectivization in 1979.(Dang 2018, 93) After China's invasion, the task of meeting the army's and people's needs for food and agricultural products became more salient. To boost crop outputs, the Politburo emphasized resource concentration and prohibited wasting land. A resolution in May 1979 called for the development of more virgin land, prohibited fallow land, and urged for protecting the land fertility and environment.(Đảng Cộng Sản Việt Nam 2004c, 155–65) In a report in August 1979, General Secretary Le Duan emphasized the need to build “socialist large-scale productions,” which included “the reassignment of agricultural labor to make full use of land, forests, sea and other resources.”(Đảng Cộng Sản Việt Nam 2004c, 295) In other words, to meet the imminent need to extract resources, the CPV double down on the communist model of organizing the economy and extracting resources.

A few weeks after China's invasion, on April 3, 1979, Trường Chinh consulted the Politburo on whether land should be nationalized in the constitution.(Quốc hội 1979d) On June 14, the Secretariat of the CPV announced the plan to solicit comments on the draft constitution, this time among the public.(Đảng Cộng Sản Việt Nam 2004c, 170–74) By then, the Politburo had decided to stipulate state ownership of land in the constitution.(Quốc hội 1979e) The Sixth Session of the CDC was held from June 15 to 21, right after the Party Secretariat announced the second-stage comment solicitation. In the session, Trường Chinh explained why the Politburo had decided to nationalize land. He highlighted how the private ownership of land caused trouble to the management and utilization of land, saying:

The private ownership of land, even to a small extent, has spawned the misuse, transaction, and exchange of land. It brings chaos and also causes many difficulties for the State in acquiring, requisitioning or changing the use of residential and cultivated land, which is necessary for basic construction, building houses, roads and irrigation projects, field construction, planning economic zones, etc.(Quốc hội 1979e)

Furthermore, the war, particularly China's invasion, boosted the nationalist sentiment of the public and affected how the constitution was drafted. For example, in the new draft discussed in the Sixth Session of the CDC held in June 1979, the issue of defense against the Chinese hegemony was added to the preamble.(Quốc hội 1979e) In terms of land ownership, the war offered a discourse for the state to nationalize land. In a report by the military hero General Võ Nguyên Giáp in May 1979, he drew on nationalism to mobilize human power to fight for the two-front war, saying, "Our people's tasks of building our country and defending our nation are closely linked. As Uncle Ho reminds us, 'Our ancestors, the Hung Vương (King Hung), built our nation, and you and I together have a duty to protect our country.'"⁴ The nationalist call resonated with the Party's justification of land nationalization. When Trường Chinh presented the final draft constitution to the National Assembly in December 1980 and explained to the lawmakers why the state should own land, the first reasoning he gave was a nationalist one, which had never come up in reports before the war and was similar to how General Giáp mobilized his compatriots to fight:

Every inch of our country's land is soaked with the blood of the heroes and martyrs of the whole country who have sacrificed heroically to regain it from the empires and feudalism and is soaked with the sweat of many generations who have explored, nourished, and protected the land. It is the common property of the people of the whole country, not of any class or locality.(Quốc hội 1980h)

The state-building efforts before and during the war also changed the power dynamics on the ground and mitigated the resistance to land nationalization. At the CDC meeting in June 1979, Trường Chinh said that land nationalization was not in previous drafts for fear that it might make farmers in the south uneasy and incentivize them to cut down plants, occupy lands to raise fish, leave land fallow, and not produce actively. Now, he commented, in the south, after more

⁴ Path, *Vietnam's Strategic Thinking during the Third Indochina War*, 96.

than four years “under the new regime and several years of the land collectivization campaign, the mindsets of farmers and cadres have changed positively.”(Quốc hội 1980h) In another CDC session in June 1980, he again mentioned that in the south, five years after the liberation, the first step had been made towards collectivization. Thus, he said, the Politburo thought “it was time” for land nationalization.(Quốc hội 1980e) As Chinh claimed when the final draft was submitted to the National Assembly in December 1980, the proposal for land nationalization was supported by most people when the draft was circulated among the public for discussion. However, he also noted that the land issue was complicated, and a land law should be drafted as soon as possible to solve issues related to residential land, gardens, and other types of land, after the land was nationalized.(Quốc hội 1980h, 11)

As we can see from the changing attitudes and debates over the state ownership of land in Vietnam, lawmakers and the party-state were first hesitant about land nationalization, particularly in the south. The constitution-makers and the Vietnamese Communist Party feared land nationalization would alienate southern farmers who had just been incorporated into the regime after the unification and negatively affect the outputs of agriculture, land reforms, and agricultural collectivization in the south. Thus, they intentionally took land out of the article of nationalization and admitted the existence of different types of land ownership, planning to continue the experience in the North of socializing land through collectivization. However, after several years of state-building, notably the outbreak of a two-front war in Cambodia and against China, the party-state had to mobilize massive resources for national defense. Under the ideological belief in the state-directed mode of economic management and resource extraction, they decided to add land nationalization to the constitution at the height of the war and state-building, leading to unitary land ownership in Vietnam.

Land Ownership in the Chinese Constitution: 1980–1982

Similar to Vietnam, the issue of land nationalization was heatedly debated in the legislative process of the 1982 Constitution in China. However, in Vietnam there was ongoing agricultural collectivization in the south around the time lawmakers drafted the new constitution; before the legislation in China, economic liberalization had started in rural China in the late 1970s, and the cooperatives of agricultural production gradually dissolved. Therefore, villagers and peasants began to realize the market value of the land they had access to. Furthermore, in that period, the party-state was undergoing a transformation, and its control of society weakened. For example, in June 1981, the Central Committee of the CPC adopted the “Resolution on Certain Questions in the History of Our Party Since the Founding of the People’s Republic of China.”(Goodman 1981; Weng 1982) The Resolution criticized Mao Zedong’s role in Cultural Revolution and Hua Guofeng, Mao’s successor, for following Mao’s instructions after 1976.⁵ The different timing of economic reforms, state-building, and constitution-making shaped the political struggles and debates over land nationalization.

At the beginning of the legislative process of the constitution, the Secretariat of the CAC did not have definitive opinions on land ownership, and there were no articles on land ownership in the drafts.(Cheng 2013; Xu 2005, 383) At that time, Hu Sheng, a member of the CAC, said, “there are some issues that we are not sure about, like the issues of land ownership, some issues of the economy of rural people’s communes, and issues related to Sino-foreign joint ventures.”(Xu 2005, 379) However, in later discussions and preparations of the drafts, the Secretariat of the CAC felt the need to add an article on land ownership, which was not in

⁵ Lei Tian highlights the close connections between the Resolution and the 1982 Constitution; Hu Qiaomu played an important role in drafting both documents, and some members of the Resolution writing team later joined the constitution amendment team. See (Tian 2022)

previous constitutions.(Cheng 2013; Xu 2005, 383) By the end of 1981, the clause which stipulated the state ownership of urban land and the collectives' ownership of rural and suburban land had been written into the draft constitution.(Peng 2018, 164) The Secretariat of the CAC noted that the clause was "a reflection of the actual conditions" in China and that stipulating the ownership in the constitution would be "good for both the development of the rural collective economy and urban construction."(Xu 2005, 388) In later discussions of the draft constitutions, there were heated debates on this article.(Editorial Group of the Biography of Peng Zhen 2012)

Xu Chongde, a Secretariat staff member of the CAC who later became a renowned legal scholar in China, detailed the discussions and comments on the draft constitutions in his book *The History of Constitutions of the People's Republic of China*. The book has since been a primary source for students of land ownership in Chinese constitutions as most historical archives of the CAC are unavailable to researchers.(Cheng 2013; Zhou 2013; Peng 2018) According to Xu, many supported the nationalization of urban land but had different opinions on whether rural and suburban land should also be nationalized. In the discussion in March 1982, Rong Yiren, then vice-chairman of the National Committee of the Chinese People's Political Consultative Conference, warned that many problems would arise if collectives owned rural land. He argued, "Now it is hard to develop new mines. Building army horse-breeding farms, extracting oil, etc., involves land issues. The constitution stipulates that any organization or individual cannot transfer and rent land. But actually, land belonging to collectives is being transferred and rented."⁶ Geng Biao, Minister of National Defense, noted that since all military airports of the air force and the navy were built in the suburbs or rural areas, collective ownership of rural land might cause problems for the construction of national defense projects.⁷

⁶ (Xu 2005, 399; Peng 2018, 165) I use some of Peng's translations here.

⁷ (Xu 2005, 399; Peng 2018, 165) I use some of Peng's translations here.

Fang Yi, then chairman of the State Scientific and Technological Commission, explained how collective ownership would hinder urban construction:

The contradiction between these two kinds of ownership is increasingly intensified and severe. The state enterprises and undertakings need to be developed, which requires land. But the land is limited. Collective ownership of suburban and rural land becomes a way [for the rural collectives] to rip off the state and make a windfall ... many peasants in the suburbs build hostels, and [peasants in] some production brigades don't grow crops but instead make big money by operating hostels. If this continues, it will enrich the peasants at the expense of the entire population, making the contradiction even more intense ... Thus, [I] propose that all land belongs to the state and collectives only have use rights.⁸

As we can see, similar to Vietnam, in the legislative progress of the 1982 Constitution, there was a call to nationalize all land, but not just urban land, so that it would be easier for the party-state to manage and use the land for its purposes. However, there was another camp of lawmakers who were cautious about nationalizing rural land. There were two main arguments against the nationalization of rural land. One was that nationalization could not solve the holdout problem in land expropriation since taking nationalized land from land users still requires compensation. (Peng 2018, 168) The other reason is the conflicts that could arise by nationalizing rural land. Hu Qiaomu, the secretary-general of the CAC, was well aware of the conflicting viewpoints concerning rural land ownership and favored leaving rural land in the hands of collectives. He said, “if [the Constitution] stipulates that all rural land belongs to the state, the state will get nothing except for turmoil.” (Xu 2005, 417) Some other CAC members agreed with Hu. For example, Yang Xiufeng argued that the two types of public ownership of means of production were a product of historical development, and nationalizing rural land would intensify the problem of “eating from one big pot” (*chi daguofan* 吃大锅饭) and bring a lot of administrative questions, “if the land is owned by the state, how is it administered? Who uses the

⁸ (Xu 2005, 404; Peng 2018, 165) I use some of Peng's translations here.

land? The administration is very complicated, and [it also involves] the issue of cadres.”(Xu 2005, 426)

Peng Zhen, the deputy chair of the CAC who directly led the committee after Hu Qiaomu’s health worsened, supported gradual nationalization. He said:

Land ownership has psychological implications. [No matter how land ownership is stipulated,] actually, the land is still used by the peasants ... I agree with nationalization, but [we] should take a gradual approach. Now the State Council has issued the Regulations on Land Expropriation. Overall, no matter whether it is owned by the state, or owned by collectives, as long as you [i.e., the state] want to use land, they [i.e., the peasants] will ask you for money ... Now, we settle on the [land ownership in] urban areas ... [and stipulate] land in villages, towns and suburbs belong to collectives. In that way, there will be fewer shocks ... [Let’s make the stipulation] in general terms, as a transition.(Xu 2005, 426)

Later in the meeting, he further noted, “We allocated feudal land to peasants during the democratic revolution. Now [if] we take the land from peasants and nationalize it, the shock will be too big (*zhendong taida* 震动太大).”(Xu 2005, 426)

Peng Zhen’s opinion on land nationalization was consistent with his thoughts on economical ownership in general. In March 1982, he commented on the ownership system in the draft constitution. He said,

Ownership of the entire people, collectives, and individuals has merit within certain conditions. If [we stipulate] ownership of the entire people for 800 million peasants, and all of them get wages [from the state], can [the state] afford it? At the current stage, collective ownership is the most superior and progressive ownership system for them. [If we] overstep it, then it is utopian. [We should] permit individual economy, protect its legal interests, and manage it accordingly.⁹

Although excluding peasants from the economic system of state ownership (i.e., ownership of the entire people) does not necessarily mean their land cannot be nationalized, Peng Zhen’s comments pointed out the additional burden and responsibilities on the state if

⁹ (Editorial Group of the Biography of Peng Zhen 2012, 133)

everything is nationalized. The trend in that period was to explore alternative ways to meet peasants' needs, e.g., through developing the individual economy, as Peng mentioned. The belief partly explained why Peng and many others favored partial nationalization of land and saw it as a temporary solution, just like how he viewed collective and individual ownership in general.

In later discussions of the drafts among the lawmakers and the public in 1982, there were comments on the clause on land ownership. Still, the article was left untouched, and the constitution was passed in December 1982. The Land Administration Law promulgated in 1986 restated the state ownership of urban land and the collective ownership of rural and suburban land. The dualist land ownership regime was built from then on.

Unlike the case of Vietnam, where the party-state was militarizing the whole nation for a two-front war, economic reforms and de-collectivization were gradually unfolding during the legislative process of the constitution in China. State power and the relationship between the party and the state were under reconstruction, and villagers were making money by building hostels and factories on their land. All these factors made it complicated and politically risky for the state to nationalize rural land. As a result, lawmakers in China took a gradual approach to nationalizing land, which turned out to be most favorable to the party-state.

Alternative Explanations

Besides state power vis-à-vis society, a product of the economic reforms and state-building process at the critical juncture of constitution-making, other plausible factors might have led to the divergence of land ownership in the two countries. One of the factors is the size of the two countries. China is much larger in terms of population and geographic area. Did the country's complexity and diversity lead the Chinese party-state to take a gradual approach to land nationalization? We cannot completely rule out the possibility. However, in the available

records of the debates on the land ownership article, one does not see much discussion on the diversity stemming from the vast territorial area.(Xu 2005, 388, 404, 412, 417, 425–26) Jiang Hua reminded other lawmakers of the diversity within and between cities: “There are differences between residential land in big and small and medium-sized cities, and there is also variation between houses that have gone through housing reforms and those that have not. By nationalizing all [urban land], all the differences disappear.”(Xu 2005, 426) Jiang was one of the few who warned against nationalizing all urban land,(Zhou 2013, 143) but his comments focused on cities and did not touch on the differences between urban and rural areas across the country. Furthermore, his opinion did not resonate among others and did not change the course toward nationalizing all urban land.

For Vietnam, as discussed previously, diversity across regions, particularly between the north and the south, was well recognized by lawmakers and party leaders. Even though the territorial size is relatively small, the differences in history, ideology, and economic development between the north and the south were huge at the time of unification and constitution-making. Furthermore, if we treat Vietnam’s diversity (or lack thereof) as constant, we cannot explain the abrupt change in land nationalization in different drafts of the constitution.

But that does not mean country size does not matter in shaping the land ownership regimes. If the Third Indochina War and the war between China and Vietnam were important reasons that affected the state-building process and state power in Vietnam, then why did they not affect the power of the Chinese party-state? Here, the territorial and population size matters. Even though tens of thousands of soldiers in both countries died in the war in 1979,(X. Zhang 2015) the impacts were much smaller on the Chinese party-state, considering its much larger

size.¹⁰ For example, the conflicts with Vietnam were rarely mentioned in the chronicles of Peng Zhen in the constitution-making process.(Editorial Group of the Biography of Peng Zhen 2012) The war affected state-building, but the effect was moderated by the size of the country, reflecting the asymmetry in the relationship between China and Vietnam.(Womack 2006)

Besides country size, international influence may be another factor that led Vietnam to nationalize all land. Did the relationship with the Soviet Union affect articles on land nationalization in the Vietnamese Constitution, particularly after the outbreak of the Third Indochina War? Did the Vietnamese party-state intentionally follow the path of the Soviet Union in nationalizing all land? Or, in a more extreme case, did the Soviet Union take advantage of Vietnam's dependence on it to pressure the Vietnamese party-state to adopt a constitution similar to the Soviet Union?

Since many archives about the relationship between the Soviet Union and Vietnam are not stored in the National Archives Center III or available to the public, one cannot completely rule out the possibility of the Soviet Union's influence. However, during the constitution-making, the CPV and lawmakers did not take the Soviet Union Constitution as the only template. They consulted the constitutions of various socialist countries, as previously seen in their discussions on whether land should be socialized through collectivization or nationalization. After the outbreak of the Third Indochina war, they continued the practice of consulting other constitutions. For example, when deliberating whether to have a preamble in the constitution, they compared the constitutions of socialist countries like Albania, Hungary, East Germany, Cuba, Czechoslovakia, and Bulgaria, besides the Soviet Union.(Quốc hội 1979e) Ultimately,

¹⁰ The timing also affected the impact of the war on the constitution-making process. The Third Indochina War broke out right in the middle of the constitution-making process in Vietnam. In contrast, China started to draft the new constitution in September 1980, more than a year after it invaded Vietnam. Furthermore, Vietnam had to also fight in Cambodia, besides the war with China.

they chose to keep the title of “Preamble” at the beginning of the constitution, which was different from the Soviet Union Constitution.

The Aftermath and Legacy of Land Nationalization

In the 1980s, both China and Vietnam started to liberalize their economies, which necessitated reforms of land institutions. The ownership systems stated in the constitutions of the early 1980s shaped the land property regimes in the new period. Before the reforms, state-owned enterprises and village collectives were the main players in the economic realms. The state coordinated their inputs and outputs, and the land was allocated to them free of charge or at low costs as a means of production. But the rise of the private economy and the inflow of foreign capital brought a new mode of revenue calculation. On the one hand, private and foreign investors did not share their profits with the state or the public, and thus the state was no longer willing to provide free land for them except to attract capital. On the other hand, some forms of land property rights were needed to incentivize investment. As a result, even though land ownership remained in the hands of the state or collectives, a market of so-called land use rights was gradually formed. Individuals and economic entities got land use rights for a certain period or permanently, and they could exchange, buy, and sell the land use rights, while in name, the state and collectives remain owners of the land. But the land ownership systems in the constitutions shape the boundaries of the land markets in the two countries.

As mentioned earlier, economic reforms started in China before the 1982 Constitution was passed. Land leasing and transactions were prevalent in the 1980s, even though the 1982 Constitution and the Land Administration Law promulgated in 1986 prohibited organizations and individuals from leasing and selling land. To fill the gap between the legal regulations and the rampant land transactions, the constitution was amended in April 1988, adding a sentence in

the article that prohibits land selling, which wrote, “the use right of land can be transferred in accordance with the law.” At the end of that year, the amended Land Administration Law also added the land use right of state-owned and collective-owned land could be transferred. It further stipulated that the state implements a system of paid use for state-owned land but said nothing about collective-owned land. As the Law Committee of the National People’s Congress explained, the reason was that a paid-use system for collective-owned land might affect the ongoing economic reforms in rural areas.¹¹ Furthermore, in 1992, the State Council stipulated that collective-owned land cannot be used for real estate development unless it has been expropriated and turned into state-owned land.(Feng, Zheng, and Zhang 2019)

Through multiple laws and regulations, a dualist land market was established in China. Collective-owned rural land faces more restrictions on its use and has limited transferability. Instead, individuals and enterprises can pay the state, get the use rights of state-owned land for construction, and transfer the land use rights to others afterward. The distinctive line between the two types of land enables the state to be a monopsonist in the rural land market and monopolize the primary urban land market.¹² The arrangement brings massive revenues to the Chinese government, particularly at the municipal level. Furthermore, local governments leverage their inventory of undeveloped urban land to get loans from banks, which brings massive credits/debts to meet their fiscal needs.(Gyourko et al. 2022) Local governments’ monopoly of the urban land market and reliance on land revenues have contributed to the housing bubbles in Chinese cities.

¹¹ The Law Committee of the National People’s Congress, *Quanguo renda falu weiyuanhui dui zhonghua renmin gongheguo tudi guanli fa xiuzhengan (cao’an) shenyi jieguo de baogao* (Review report of the Law Committee of the National People’s Congress on the draft amendment to the Land Administration Law of the People’s Republic of China), December 23, 1988.

¹² In the secondary urban market land market, the state or the local government is not the only supplier since other organizations and individuals who have purchased or got allocated land use rights can transfer the rights to others. But the state controls the supply of newly converted urban land and thus is a monopolizer in the primary urban land market.

In Vietnam, the economic reform called Renovation (*đổi mới*) was formally launched in 1986. The constitution was systematically amended in 1992 to accommodate the political and economic changes in the Renovation era. (Sidel 2009, chap. 5) In the 1992 Constitution, land remains in the article on state ownership, which writes:

The land, forests, rivers and lakes, water supplies, wealth lying underground or coming from the sea, the continental shelf and the air, the funds and property invested by the state in enterprises and works all branches and fields - the economy, culture, society, science, technology, external relations, national defense, security - and all other property determined by law as belonging to the state, come under ownership by the entire people.

Before the official launch of Renovation in 1986, the state's control of the economy had gradually relaxed throughout the early 1980s. (Path 2020, chap. 6) Thus, different from China, where the constitution was largely rewritten after the political fights between the reformers and Mao's followers in the late 1970s, the transition was relatively smooth in Vietnam.¹³ Articles in the 1980 Constitution were amended, and elements incompatible with the economic reforms were removed. Afterward, the 1992 Constitution remained the legal foundation of the Renovation era. Building on the 1980 Constitution, the first Land Law passed at the end of 1986 prohibited land transactions, but on the ground, land exchange was vibrant. (Gillespie 1998) Therefore, after the 1992 Constitution was promulgated, the 1993 Land Law formally granted households and individuals the rights to transfer, exchange, inherit, lease, and mortgage their land use rights.

Unlike China, the unitary land ownership system makes it hard for the state to monopolize the market of land used for construction. The residential land in both rural and urban areas can be transferred to individuals and developers for construction through negotiation

¹³ For example, there were only 60 articles in the 1978 Constitution of China but 138 articles in the 1982 Constitution.

without going through the government.(H. L. Nguyen, Duan, and Zhang 2018) As a result, the revenues Vietnamese governments can get from real estate land selling are much smaller than their Chinese peers. The existence of alternative selling options also makes state-led land development more difficult in Vietnam, bringing challenges to its infrastructure construction. The divergent land ownership systems in the two countries turned out to have significant effects on their development and political economy.

Conclusion

When communist parties first came to power in China and North Vietnam, both hesitated about land nationalization, knowing how vital the land reforms and allocating land to peasants were for the legitimacy of the regimes. In China, when the party-state initiated land collectivization in the 1950s, to avoid potential conflicts with farmers, it did not follow the path of the Soviet Union and nationalize all land.(Liao 1956) Rather, the land was aggregated at the village level and managed and used by the collectives. North Vietnam followed the trajectory of China in building agricultural cooperatives and collectivizing land. Nevertheless, both party-states had the impulse to nationalize land so the state could better administer and use the land for its purposes. But land nationalization was not stipulated in the constitutions until the early 1980s, after the two countries underwent significant changes.

This paper traces the processes and demonstrates that the divergence of land ownership in the constitutions of the two countries in the early 1980s cannot be explained by the generally weaker state power in Vietnam than China. It argues that the variation stemmed from the more proactive action of the Vietnamese party-state at the time of constitution-making, resulting from the Third Indochina War, the state-building process, and the lack of economic liberalization. The Third Indochina War necessitated massive mobilization of the workforce and resources. Guided

by the belief in the state-directed mode of extraction, the Vietnamese Communist Party saw land nationalization as an effective way to mobilize resources. Therefore, they decided to nationalize all land in the 1980 Constitution. In comparison, in China, where the war posed much fewer threats and economic reforms had started before the legislative process of the constitution, nationalizing all land became an option with more risks and few potential benefits. Thus, constitution-makers in China were more cautious about nationalizing rural land and only nationalized urban land.

But when the economic reforms were initiated in the 1980s and intensified in the 1990s and 2000s, agricultural products were no longer the primary concern for the party-states. In comparison, access to land for the urban constitution and land sale revenues became much more critical to the state. In this period, the state ownership of all land in Vietnam prevented the Vietnamese state from monopolizing the urban land market. It ultimately limited the land sale revenues they could get, unlike China.

The evolution of land revenues in the two cases provides new insights for the studies of state-building and state capacity. In the case of Vietnam, the state-building efforts intensified by the war produced a property regime that did not lead to persistent fiscal capacity. In contrast, in China, the institutional design constrained by state-society power dynamics unintentionally led to strong, though not necessarily sustainable, fiscal capacity. To explain the temporal variation in fiscal capacity, I highlight the importance of ideological beliefs, which significantly shape the decision-makers' views on how the economy develops and how resources can be extracted. Bringing in the ideological factors, we may better understand the evolution of state capacity outside the European continent, particularly for the post-1900 period.

As for China and Vietnam, the significant impacts of the land regimes on the two

communist states have much broader implications than land per se. The fiscal capacities that originate from the two countries' land regimes lead to the divergence in infrastructure investment, political accountability, corruption, and many other aspects of the political economy in China and Vietnam. The findings will reorient our thinking about the development trajectories of the two countries and shed light on our understanding of their future.

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