



Comparison of Ancient Building Legislation between China and Foreign Countries from the Perspective of Property Rights

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Abstract

The State Council's 2024 legislative work plan proposes the formulation of the *Regulations on the Protection of Historical Blocks and Ancient Buildings*. While current Chinese regulations on ancient architecture predominantly prioritize public interests, the implementation of the Civil Code has strengthened the protection of property rights. This study conducts a comparative analysis of the interplay between restrictions on public rights and compensation mechanisms for private rights in the preservation of ancient buildings, drawing on legislative frameworks from China, the United Kingdom, and France. The findings aim to provide recommendations for refining property rights provisions in the forthcoming *Regulations on the Protection of Historical Blocks and Ancient Buildings*.

Disciplinary: Multidisciplinary (Urban Planning, Architecture (Architectural Heritage Conservation), Comparative Law).

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1 Introduction

On May 6, 2024, the General Office of the State Council issued the State Council's 2024 Annual Legislative Work Plan, which mandates the preparation of the Regulations on the Protection of Historical Blocks and Ancient Buildings [1]. This marks a significant advancement in the legal safeguarding of ancient buildings at the national level. Ancient buildings encompass three

categories: cultural relic buildings (文物建筑), historical buildings (历史建筑), and traditional-style buildings (传统风貌建筑). While the Law on the Protection of Cultural Relics (2017) explicitly outlines protection requirements for cultural relic buildings, this article focuses on the legislative challenges and opportunities for preserving historical buildings and traditional-style buildings. By analyzing legal frameworks in China, the United Kingdom, and France, this study compares the interplay between restrictions on public rights and compensation for private rights in ancient building preservation. The findings aim to inform the drafting of the forthcoming Regulations on the Protection of Historical Blocks and Ancient Buildings, particularly in addressing property rights-related issues.

2 Institutional Challenges in Ancient Building Legislation Regarding Property Rights

2.1 Safeguards for Property Rights under the Civil Code

According to the Civil Code of the People's Republic of China (2020), property rights are defined as the holder's legal entitlement to directly control and exclusively possess a specific object, encompassing ownership, usufructuary rights, and security interests. These rights are enforceable against all parties and entail exclusivity, priority, and retroactivity. In practice, most ancient buildings are privately owned. Owners retain the rights to occupy, use, profit from, or dispose of their property, provided such actions do not endanger building safety or infringe on others' lawful interests. Consequently, for damaged ancient buildings, owners face two options: (1) repair and retain the original structure, or (2) demolish and rebuild once deterioration reaches a critical threshold. The latter option has become a focal point of public-private rights conflicts in China's preservation efforts (Yuan, 1999).

2.2 Conflicts between Public and Private Rights

2.2.1 Inherent Conflict

As cultural heritage, ancient buildings embody dual value orientations: private rights prioritize practical utility (e.g., residential or commercial use), while public rights emphasize cultural and societal significance. This intrinsic tension necessitates legislative mechanisms to balance restrictions on private rights with compensatory measures (Liang, 2019).

2.2.2 Conflicts in Designation Processes

China's Regulations on the Protection of Famous Historical and Cultural Cities, Towns, and Villages lack explicit standards and procedures for designating historical buildings. For instance, Guangzhou's designation process involves two stages:

- (1) **Pre-protection phase:** Local governments identify buildings for provisional protection without consulting owners.
- (2) **Public announcement phase:** Owners may voice opinions, but regulations fail to address

restrictions or compensation if they oppose designation (Liu, 2017).

This ambiguity exacerbates public-private conflicts, particularly regarding ownership limitations and compensation eligibility during the interim period.

2.2.3 Conflicts in Preservation and Restoration

The Regulations impose the following restrictions and compensations during restoration:

- **Restrictions**
 - (1) Maintain original height, color, and style.
 - (2) Owners are responsible for maintenance and repairs.
 - (3) Prohibit relocation or demolition.
 - (4) Require administrative permits for restoration work.
- **Compensation**
 - (1) Financial subsidies for restoration.
 - (2) Government assistance if owners lack repair capacity.

However, in practice, subsidy amounts and funding sources remain undefined, and local governments often lack dedicated budgets or enforcement mechanisms, leading to inconsistent implementation.

2.3 Issues of Unclear or Disputed Ownership

In practice, the property rights of ancient buildings often involve complex scenarios, including *intertwined public and private property rights*, disputes among multiple rights holders, or *unclaimed ownership*. Such legal ambiguities hinder effective restoration and preservation. Local authorities face dual challenges: (1) public funds cannot be allocated for privately owned buildings entangled in disputes, and (2) social capital remains reluctant to invest in preservation projects with contested ownership. Consequently, these buildings often deteriorate irreversibly due to unresolved legal and financial barriers.

2.4 Challenges in Motivating Private Ownership

2.4.1 Cost-Benefit Imbalance

The cost of maintaining and restoring ancient buildings frequently exceeds 2–3 times the expense of demolition and reconstruction. For privately owned ancient buildings, owners weigh the financial investment against three factors: use value (private interest), economic returns, and historical value (public interest). In areas with limited economic potential or poor accessibility, economic and historical values are often unrealizable. Thus, private owners prioritize minimizing costs over preservation. While local governments attempt to incentivize restoration through subsidies tied to traditional architectural standards, limited subsidy amounts and bureaucratic inefficiencies discourage compliance. Many owners opt for neglect rather than engaging in costly, state-mandated preservation efforts.

2.4.2 Imbalance between Preservation Responsibilities and Rights

Governments enact legislation to restrict private rights in the interest of public welfare. For example, the Regulations on the Protection of Famous Historical and Cultural Cities, Towns, and Villages impose a series of limitations on private rights, such as "no activities that cause destructive impacts to their traditional layout and historical features" and "no unit or individual may damage, relocate, or demolish historical buildings without authorization." According to the principle of consistency between rights and obligations, those who bear legal responsibilities should also enjoy corresponding rights. However, specific regulations on compensating maintenance costs remain problematic. On one hand, while government-mandated restrictions ensure the preservation of privately owned historic buildings, property owners are forced to bear the primary costs at the expense of their development rights, which undermines their motivation to protect these structures. On the other hand, due to the incomplete subject rights of the property right holders, unilateral modifications made by owners to serve their own interests often obstruct the government's goal of safeguarding public welfare.

3 Comparative Analysis of Property Rights in Ancient Building Legislation: China vs. Foreign Countries

3.1 Sources of Legal Documents: 20+1+1 Relevant Laws & Regulations

This study is a sub-research derived from the Ministry of Housing and Urban-Rural Development's research project titled Research on Legislative Systems for Historical Districts and

Table 1: Sources of Legal Documents from China and Foreign Countries

Chinese Regulations	UK Legislation	French Legislation
Suzhou Ancient Building Protection Regulations (2003) Yunnan Xishuangbanna Dai Autonomous Prefecture Ethnic Traditional Building Protection Regulations (2008) Xiamen Special Economic Zone Gulangyu Historical Architecture Protection Regulations (2009) Chengbu Miao Autonomous County Ethnic-style Architecture Regulations (2010) Shaanxi Province Building Protection Regulations (2013) Heilongjiang Province Historical and Cultural Building Protection Regulations (2015) Yuncheng Guandi Cultural Building Complex Protection Regulations (2016) Shiyan Wudang Mountain Ancient Building Complex Protection Regulations (2017) Huangshan Huizhou Ancient Building Protection Regulations (2017) Quanzhou Zhongshan Road Arcade Building Protection Regulations (2018) Tianjin Historical Architecture Protection Regulations (2018) Shangrao Historical Building Protection Regulations (2019) Jiujiang Historical Building Protection Regulations (2019) Zhengzhou Songshan Historical Building Complex Protection and Management Regulations (2020) Fujian Province Traditional-style Architecture Protection Regulations (2021) Luzhou Historical Architecture Protection Regulations (2021) Zhanjiang Historical Building Protection Regulations (2021) Chizhou Ancient Building Protection Regulations (2021) Qingdao Historical and Traditional-style Architecture Protection and Utilization Regulations (2022) Guangzhou Traditional-style Architecture Protection Provisions (2023)	Listed Buildings and Conservation Areas Act (1990)	Heritage Code (2018)

Ancient Buildings at Home and Abroad. It compares 20 Chinese laws and regulations currently in effect across various regions in China with the legal frameworks governing the restrictions and compensations related to property rights in ancient buildings under the UK's Listed Buildings and Conservation Areas Act (1990) and France's Heritage Code (2018) (see Table 1).

3.1.1 Comparative Definitions of Ancient Buildings in Legislation

In China, ancient buildings are primarily categorized into cultural relic buildings (文物建筑), historical buildings (历史建筑), and traditional-style buildings (传统风貌建筑). In the United Kingdom, ancient buildings are classified into three tiers: Grade I Listed Buildings, which are of exceptional importance and strictly prohibited from demolition under any circumstances; Grade II Listed Buildings, which also hold significant value and are generally not permitted for demolition; and Grade III Listed Buildings, which serve as supplementary structures with group value but lack distinctive architectural or historical significance (Su, 1995). In France, ancient buildings are divided into two main categories: Classified Monuments and Registered Monuments. The comparative definitions of ancient buildings across these countries are summarized in Table 2.

Table 2: Comparative Definitions of Ancient Buildings in China, the UK, and France

China	United Kingdom	France
Cultural relic buildings	Grade I Listed Buildings	Classified Monuments
Historical buildings	Grade II Listed Buildings	Registered Monuments
Traditional-style buildings	Grade III Listed Buildings	-



Cultural relic buildings:
The Imperial Palace



Historical buildings:
Linyuan Pavilion



Traditional-style buildings:
Baoshutang

Figure 1: Ancient Buildings in China



Grade I Listed
Buildings :
Westminster Abbey



Grade II Listed
Buildings :
Sheffield City Hall



Grade III Listed Buildings : The
Balmoral, Edinburgh

Figure 2: Ancient Buildings in the UK



Classified Monuments:
Cathédrale Notre-Dame
de Paris



Registered Monuments: Gare de Paris-Nord

Figure 3: Ancient Buildings in France

Therefore, the historical buildings and traditional-style buildings discussed in this paper are comparable to the Grade II and III Listed Buildings in the UK, as well as the Registered Monuments in France.

Figure 1 illustrates instances of Ancient Buildings in China, whereas Figures 2 and 3 depict examples of Ancient Buildings in the UK and France.

3.2 The UK's Approach

3.2.1 Restrictions on Public Rights

Under the UK's Listed Buildings and Conservation Areas Act (1990), the public rights requirements for protecting ancient buildings are as follows:

- (1) **Temporary (Pre-listing) Protection for Unlisted Buildings:** If a building meets the criteria for listing, relevant authorities may impose temporary protections equivalent to those for listed buildings. The Secretary of State for Heritage issues a formal notice to the building's owner, occupants, and local planning authorities.
- (2) **Permitting Modifications or Extensions to Listed Buildings:**
 - ① Written consent must be obtained from the local planning authority or the Secretary of State.
 - ② Work must strictly adhere to the approved terms and conditions. Projects may only commence if both conditions are satisfied.
- (3) **Permitting Demolition of Listed Buildings:**
 - ① The local planning authority must grant consent.
 - ② The demolition proposal must be notified to the Royal Commission (Historic England in England or the Royal Commission on Ancient and Historical Monuments in Wales).
 - ③ The Royal Commission retains the right to document or issue statements at least one month before work begins.
 - ④ Demolition must strictly comply with the consent terms. Projects may only proceed if all conditions are met.

- (4) **Compulsory Repairs for Listed Buildings:** If the Secretary of State determines that reasonable steps to protect a listed building have not been taken, authorities may forcibly acquire the building and associated land to enforce preservation measures.

3.2.2 Compensation and Support for Private Rights

Under the UK's Listed Buildings and Conservation Areas Act (1990), the compensation and support mechanisms for private rights in ancient building protection are as follows:

(1) **Compensation for Revoked Permits for Listed Buildings**

Property owners may claim compensation under the following circumstances:

① Costs incurred due to revoked or modified permits for alterations, extensions, or demolition that render the project unviable.

② Losses or damages directly attributable to the revocation or modification.
Note: Expenses incurred before permit issuance, or caused by pre-existing conditions, are not eligible for compensation.

(2) **Compensation for Temporary Protection of Unlisted Buildings**

Property owners are entitled to reimbursement for contractual breaches caused by halting or canceling construction projects due to temporary protection measures.

(3) **Compensation for Compulsory Protection of Listed Buildings**

If a listed building is forcibly protected due to the owner's deliberate neglect, compensation is limited to the minimum stipulated by regulations, provided both of the following apply:

- ① The building is deemed derelict.
- ② The state acquires the property for preservation.

Figure 4 shows the connection between restrictions on public rights and compensation and support for private rights in the UK.

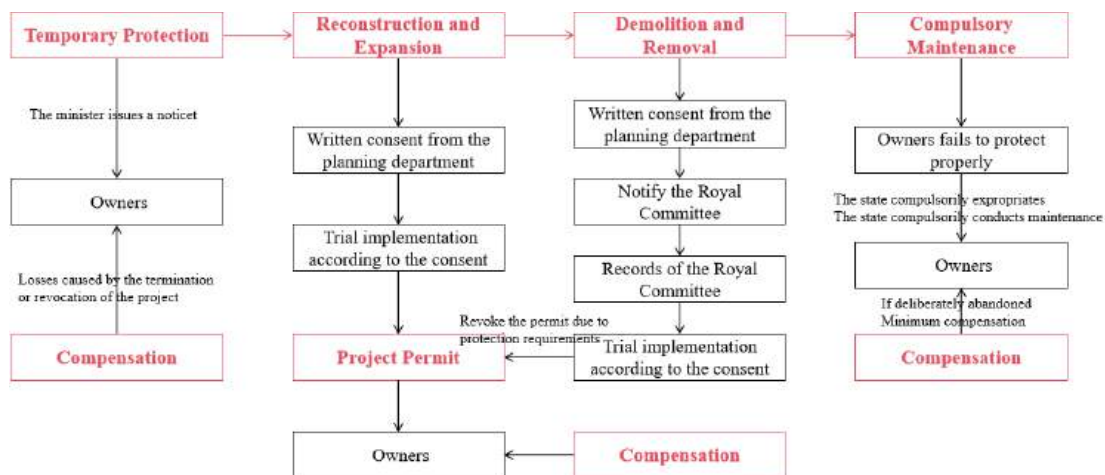


Figure 4: The linkage relationship between restrictions on public rights and compensation and support for private rights in the UK.

4 Critical Analysis

While this framework largely safeguards private property rights, the allowance for demolition under certain conditions has led to systemic challenges. The *Town and Country Planning Act* permits individuals or entities to apply for demolition permits two months in advance. However, local governments often lack the fiscal capacity to purchase or maintain unprofitable historic buildings, resulting in exorbitant preservation costs. Consequently, owners frequently

exploit loopholes—such as citing "fire accidents"—to justify demolishing protected structures (Zhang, 1992; Zhang et al., 2024).

4.1 France's Approach

4.1.1 Restrictions on Public Rights

(1) *Protection Requirements During Listing*

For privately owned buildings, if the property owner consents, the structure may be classified as a historical monument after formal notification by administrative authorities. If the owner objects, the classification—including associated obligations—is determined by decree from the Council of State, based on recommendations by the National Heritage and Architecture Commission.

(2) *Permitting Construction and Demolition*

Listed historical monuments may not be damaged, relocated (even partially), restored, repaired, or modified without approval from heritage protection authorities. Owners seeking to alter or demolish such structures must obtain permits through formal applications.

(3) *Compulsory Maintenance by Owners*

If neglect severely jeopardizes a listed monument's preservation, administrative authorities may mandate repairs, informed by the National Heritage Commission's recommendations. Owners are notified of the required work, timelines, and the state's financial contribution, which must cover at least 50% of costs.

(4) *State-Enforced Repairs*

If owners fail to comply, the state may enforce repairs. In such cases, owners are required to reimburse the state for up to 50% of incurred expenses.

4.1.2 Compensation and Support for Private Rights

(1) *Compensation for Listing*

Owners may claim compensation if classification as a historical monument directly and substantially alters the property's condition or use. Claims must be filed within six months of notification. If no amicable agreement is reached, compensation is determined by a judicial authority.

(2) *Subsidies for Routine Maintenance*

Administrative authorities may subsidize up to 40% of actual expenses for maintenance or repairs necessary to preserve listed monuments.

(3) *Cost Sharing for Compulsory Maintenance*

When repairs are mandated, the state covers at least 50% of costs, with owners responsible for the remainder.

(4) *Reimbursement for State-Enforced Repairs*

If the state undertakes repairs due to owner non-compliance, the owner must repay up to 50% of the expenses.

Figure 5 presents the linkage relationship between restrictions on public rights and compensation and support for private rights in France.

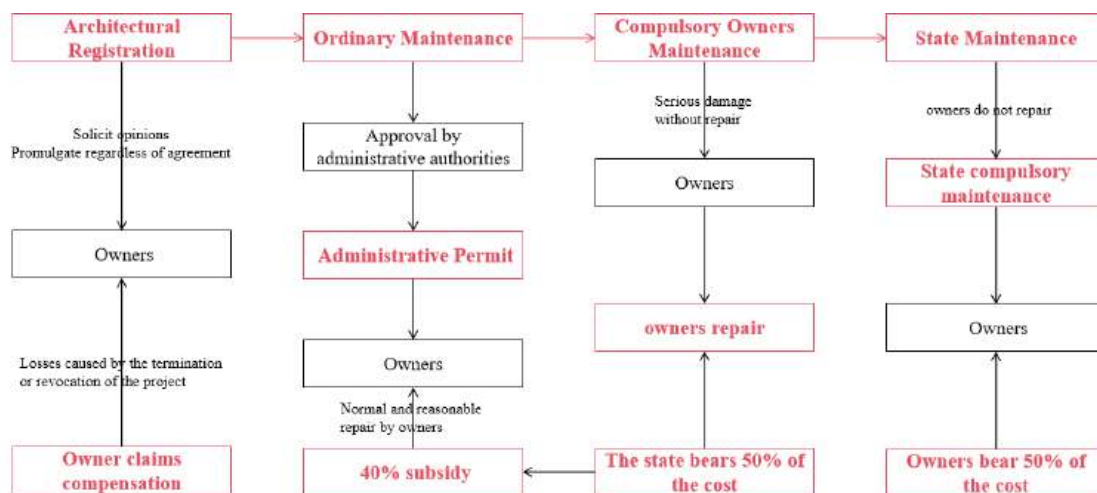


Figure 5: The linkage relationship between restrictions on public rights and compensation and support for private rights in France

4.2 China's Approach

4.2.1 Restrictions on Public Rights

(1) *Designation of Historical Buildings*

Local regulations require public announcements and consultations (e.g., seminars or hearings) to solicit opinions from property owners during the designation process. However, in practice, inadequate compensation and other factors often lead to resistance from owners.

(2) *Restrictions on Modifications or Extensions*

Strict administrative permits are required for external renovations, additions, structural alterations, or changes in the use of historical buildings.

(3) *Prohibition of Demolition*

National and local laws generally prohibit the demolition of ancient buildings. Unauthorized damage, relocation, or removal of historical buildings is strictly forbidden.

(4) *Maintenance and Restoration Obligations*

Owners of historical buildings are legally obligated to maintain and restore their properties in accordance with preservation plans.

4.2.2 Compensation and Support for Private Rights

(1) *Financial Subsidies*

Local governments at or above the county level may provide subsidies from conservation funds to support the maintenance and restoration of historical buildings.

(2) *State-Led Repairs*

If a historical building is at risk of deterioration and the owner lacks the capability to repair it, the local government must intervene to ensure its protection.

4.3 Comparative Analysis and Summary

The comparative study of China, the UK, and France (Table 3) reveals that all three countries have established clear frameworks for restrictions on public rights and compensation and support for private rights in ancient building legislation, though with distinct nuances. Notably, the UK and France provide highly detailed regulations for both aspects, including explicit compensation ratios (e.g., France's 40% subsidy cap or the UK's minimum compensation thresholds). In contrast, China places greater emphasis on public rights restrictions and prioritizing public interests, while its mechanisms for private rights compensation and support remain largely confined to macro-level policies with limited specificity in implementation.

This divergence underscores fundamental differences in legislative priorities: European systems balance heritage preservation with robust private rights safeguards, whereas China's approach prioritizes centralized regulatory control, reflecting its broader socio-legal emphasis on collective welfare over individual property incentives.

Table 3: Comparative Analysis of Public and Private Rights in Ancient Building Legislation: China, the UK, and France

Aspect	China	United Kingdom	France
Public Rights			
- Designation	Mandatory	Mandatory	Mandatory
- Modifications	Permits required	Permits required	Permits required
- Demolition	Prohibited	Allowed	Allowed
- State-led repairs	Unclear	Yes	Yes
Private Rights			
- Designation compensation	None	Detailed	Detailed
- Restoration subsidies	Vague	Detailed	40% subsidy
- State-enforced compensation	Unclear	Minimal	≤50% repayment

5 Legislative Recommendations

5.1 Constraints on Public Rights

Public rights should be exercised with "public interest" as the primary criterion. Future legislation must adopt a more cautious approach to restrictions on modifications, partial demolitions, and other interventions. Clear definitions of "public interest" boundaries should be established through regulations or guidelines, specifying which heritage values fall under public concern. For lawful actions by property owners outside these boundaries, the law should prioritize support over restriction, ensuring their rights are respected.

5.2 Protection of Private Rights

Under public rights constraints, private rights may be adversely affected. Future legislation should enhance protections by formalizing compensation mechanisms, subsidies, tax incentives, and procedural rights. Property owners should be actively involved in the entire preservation process, ensuring those genuinely committed to heritage conservation are not disadvantaged.

5.3 Public Participation Mechanisms in Designation Processes

In 1996, Japan amended its Cultural Properties Protection Law to introduce a "registration system," enabling citizens to nominate cultural properties for protection, thereby boosting public engagement (Zhao, 2016). As awareness of historical preservation grows in China, adopting a similar citizen-initiated designation mechanism should be prioritized in future legislation.

5.4 Institutional Design for Ownerless Property Rights or Ownership Disputes

Zhongshan City, Guangdong Province, faces challenges with numerous ownerless historical buildings due to overseas Chinese ownership. To address this, Zhongshan developed the Procedures for Verification of Property Rights and Disposal of Ownerless Buildings in the Xiangshan Ancient Town Conservation Project, which includes steps such as registration, notarization, public verification, archival documentation, and restoration. Future legislation should incorporate systematic frameworks to resolve ownership ambiguities and facilitate the preservation of disputed or ownerless heritage structures.

6 Conclusion

Legislation is a long-term and complex endeavor. Drawing lessons from the experiences and challenges of Western countries, such as the UK and France, holds significant value for refining China's legislative efforts to preserve and utilize ancient buildings. Furthermore, it is evident that relying solely on national legislation to address property rights issues in ancient building protection faces institutional and systemic challenges. The key to effective preservation lies in leveraging legal tools to establish a multi-tiered legal framework—spanning national and local levels, and integrating laws, regulations, and standards—to ensure comprehensive protection and sustainable utilization of ancient buildings.

7 Availability of Data and Materials

All information has been included in this article.

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