

PROPERTY AND POLITICS IN AND AFTER SOCIALISM¹

KATHERINE VERDERY*

The socialist economies of Eastern Europe did not have any property system governing their productive activities (Frydman and Rapaczynski 1994, p. 11)

Ownership is the back-bone of the economic system of Socialist countries (Knapp 1975, p. 64)

ABSTRACT

This essay synthesizes work on the property regime of Soviet-type societies, using examples from Romania. Its aim is to correct the assumption common among western economists and policy-makers that there was no property in socialist societies (see, e.g., Frydman and Rapaczynski) and therefore no obstacles to privatization. On the contrary, socialist property was clearly articulated, and its organization had strong implications for how socialist firms might be privatized. Thus, what looked like a “property vacuum” to western advisors proved to be very full of property rules and relations, which impeded satisfactory privatization even years after the collapse of communist parties.

Key words: *socialism, property, privatization.*

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Anthropological study of “actually existing” socialism was just gathering momentum when the events of 1989 effectively ended its existence in Eastern Europe and the former Soviet Union. Over twenty years of research had produced a variety of writing on processes of socialist planning, rural political economy, kinship, gender, ritual, and ethnic and national identity. Collectively, these works were beginning to reveal the lineaments of how socialist societies operated and how they differed from each other. Summarizing one clear result, Ernest Gellner observed that socialism’s defining trait was the exhaustive invasion of the economic by the political. Perhaps nowhere else was the phrase “political economy” so apt a description. To grasp the intertwining of the political with the economic (and with everything else) would prove essential to comprehending trajectories out of socialism after 1989. One area of which this was particularly true was the transformation of property, in a process usually referred to as „privatization”. Because the destruction of private property had been so central an

imperative in building up socialism – call Marx and Engels’s dictum in the Communist Manifesto, “The distinguishing feature of communism is the abolition of bourgeois property” – the destruction of socialism after 1989 meant almost everywhere the recreation of private property. That process was soon to reveal, however – scholars, at least – the necessity of better understanding how property functioned in socialism.

My task in this essay is to outline the politics of socialist property and to indicate what that meant for property after socialism. This is not a topic with a wide anthropological literature. To be sure, anthropologists have long occupied themselves with describing property forms in various settings. Beginning in the 1990s, a number participated in the resurgence of anthropological interest in property, investigating new property phenomena such as indigenous land claims, cultural and intellectual property, property in body parts, and the property implications of new reproductive technologies. Some of this work raises questions about how we should understand property and whether it is even useful as an analytic concept. But anthropologists had not much investigated property in socialist contexts, merely writing about life within socialist property organizations such as collective farms without investigating them as property forms per se. Most of what we know about socialist property has come from legal scholars (e.g., Knapp 1975 and Butler 1988) and economists (e.g., Kornai 1980, 1992).

The same is true since 1989: anthropologists have described property transformation, especially the dismantling of socialist agriculture, without systematically exploring the property forms of before. Debate (such as that evident in my two chapter epigraphs) comes primarily from lawyers, political scientists, and economists rather than anthropologists (who have nonetheless argued against the simplistic treatment of privatization in those other fields—objecting, for instance, to the ethnocentric assumptions of the "bundle of rights" conception so widely used in economics and legal studies, or to neo-institutionalist analyses aimed at designing market-based property regimes from the top down). A particular target of my own work on the privatization of land (Verdery 2003) is the idea that socialism had no property order, and that as a result its collapse left a *tabula rasa* upon which new forms could be written unproblematically. I hold the view that socialism had a distinctive property order, though its categories and operation differed fundamentally from those of market economies.

To write of “property in socialism” reifies and homogenizes a reality that was much more complex, with variations occurring both across the region and through time. In the space available to me, however, I can offer only a schematic, condensed account, aimed at clarifying the problems of making “private property” from the property relations of socialism in the former Soviet bloc (the literature upon which I draw). In analyzing socialist property, I follow Bronislaw Malinowski’s dictum and ask not just about ownership but about how socialism’s resources were used. This strategy enables me to examine socialist property in something like its own terms, instead of as a failed form of western property.

I should begin by stating how I understand the notion of property. I think of it as a set of political, economic, cultural, and social constructs and relationships through which persons are related to one another by means of things, or values. Central to it are cultural idioms by which persons are defined and linked through social relations to one another and to values. Property is about boundary-making: it sets up inclusions and exclusions, “belongings”, such as what “belongs” to whom, and who belongs to or has affinities with some larger entity that occupies a relation to specific values or things. Along with this boundary-making, property is about appropriation, and thus about power. Power affects which actors and relations are recognized or privileged in a given understanding of property, as well as permeating the wider field of social relations in which persons and values are linked. Moreover, the ways of linking persons and values often require adjudication – a power-laden process. The social relations of property, like all social institutions, are rule-bound; power is inherent in setting and contesting those rules. In short, I see property as simultaneously a cultural system, a set of social relations, and an organization of power, all coming together in social processes.

Using this framework, I organize my discussion as follows. First, I look at socialist property as a cultural system: what kinds of categories did socialist systems create for property? Here I emphasize the categories as formally constituted in law; I discuss later on how they functioned in practice. Second, I consider it as a system of power and social relations: how did these categories become real, and what kinds of property relations were constituted thereby? How did a system based in ownership by “the whole people” break that entity down into smaller ones interacting with one another to make property rights effective? I examine how resources were transacted within the “unitary fund” of socialist property and explore some of the stratagems by which actors strove to make its rigid constructs workable; my examples come mainly from socialist agriculture. I conclude by discussing some implications of this way of organizing property for its transformation after 1989.

TYPES OF PROPERTY AND OWNERS UNDER SOCIALISM

The outlines of socialist property as a cultural system emerge from inspecting its legal categories, as evident in legal texts. We should exercise care in reading them, for law did not occupy the same place in socialist societies as in western ones, and property was no exception. Under socialism it was less a legal and more an administrative matter; it was governed not by legal procedures aimed at creating regularity and certainty but by administrative measures, regarded as having the force of law though not created through a legislative process backed by courts. This said, however, it is worth inspecting the law because the categories employed in a society’s laws help to reveal its conceptual foundations, giving a sense of its

universe of both power and meaning, as well as of how these differ from those of other property regimes.

Michael Heller observes that whereas the categories of market-based economic and legal systems focus on the scope of individual rights for each of several types of property – such as “real” and “personal” property, “tangible” and “intangible” property, or state, common, and private property – socialist legal categories emphasized, rather, the identity of the owners, the property types associated with each, and the social relations characterizing them (Heller 1998, p. 628). Socialist law recognized three principal kinds of owner: the state, socialist cooperatives, and individual persons or households. These related to four property types: state property, cooperative property², personal property, and private property. “The state” owned state property (though technically speaking, the owner was not the state but another abstract entity, “the whole people”); “cooperatives” owned cooperative property (technically, the owner was the collective membership of that cooperative, not a larger socialist entity); and “individual” households owned personal and private property, the two types being distinguished from each other in that personal property consisted of items of consumption, private property of means of production.

State property/ownership was the most important of these types of property and owners; all other forms were subordinated to it. For example, in agriculture there were two main organizational forms, state and collective farms. In all countries the cooperative property held jointly by members of a collective farm was ostensibly separate from state property. If a state farm were being expanded into the lands of that collective farm, however, state planners had no qualms about annexing the collective's land without acknowledging the joint rights of the farm members over it. Although for both cooperative and state property the property right was absolute, exclusive, inalienable, indivisible, and immune from attachment for debts, nonetheless “the state property right is more absolute than other property rights and than all other real rights” in civil law, and also more exclusive (Lupan and Reghini 1977, p. 54–55). In the words of a Romanian judge with whom I spoke, “Socialist state property was more inalienable, more exclusive, more property than any other form, and judicial practice was to shore it up, buttressing its status over that of other kinds”. This superiority of state property was reflected in the much greater material endowment of state enterprises than of the “lower” cooperative form, accorded many fewer resources.

“Cooperative property” consisted of means of production “donated” or pooled by individuals who had formed a cooperative. It most commonly included means of production in various trades’ cooperatives, the means of cultivation in

² I use the term “cooperative” in referring to the category that includes both agricultural and non-agricultural enterprises of non-state type. When I wish to speak of non-state agricultural enterprises, I use the term collective, as in “collective farm”, rather than speaking of “cooperative farms”, since the term “collective farm” is the more widely used in English and bears more appropriate connotations.

collective farms, and land that people were compelled to give them (except that in Albania and the Soviet Union, where all land belonged to the state; collective farm members jointly owned only the means of cultivation). Unlike state property, which belonged to “the whole people”, cooperative property belonged only to those who had pooled it; their property rights resembled those of shareholders in a capitalist firm. State property coexisted uneasily with this form and was always meant to absorb it. Together, the categories of state and cooperative property made up the super-category of socialist property, which included nearly all society's major means of production. Socialist law linked socialist property closely with a third type – personal property, which (according to plan) was to increase continually as part of projected improvements in the standard of living. This category consisted primarily of objects of consumption – houses, furnishings, automobiles, and so on. Laws constrained their use to keep people from turning them into means of production. For instance, one could own one's car but was prohibited from using it as a taxi to generate revenue, and one could not own more than one house lest the others be used for rental income.

In contrast to personal property, the fourth type – private property – concerned not consumption but means of production owned and used by petty-commodity producers such as uncollectivized peasants and trades-people (e.g., tailors, cobblers, or carpenters); such property was likely to be organized in households rather than in socialist organizations. Seen as a residue of the bourgeois order, private property was slated for eventual elimination and was of minimal importance in all but Poland and Yugoslavia (where private-property-owning cultivators formed the large majority of the rural population). This long-term plan to eliminate cooperative and private property underlay the hierarchical relations of property forms: state property was prior to all others and enjoyed the fullest legal protection, followed (in order) by cooperative, personal, and private property.

The three types of owners (the “whole people,” cooperatives, and households) were distinguished from other possible actors in that they alone were empowered to own and thus to appropriate. It is important to note that these actors were defined as jural subjects precisely by their property status. As Butler puts it for the Soviet Union, “Juridical persons are those organizations which possess separate property, [and] may acquire property and personal non-property rights and bear duties in their own name...” (1988, p. 179). Thus, jural personhood was a function of property status, and to be a jural person automatically entailed having certain property rights.

ADMINISTRATIVE RIGHTS AND EXCHANGES OF GOODS

Defined as a jural person, an entity could further allocate rights to specific subunits – for instance, “the state” could parcel out rights to use state property both to cooperatives and to other lower-level actors, such as state firms, socialist

organizations (e.g., the trade unions or the Councils of National Minorities), or lower-level territorial units. Understanding this is crucial to understanding how state ownership worked. To do so requires that we stop asking about ownership and look at the distribution of various kinds of rights and relations, as well as at patterns of actual use.

The state held the dominant property rights, as I noted above. In order for it to be an effective actor, state property was said to form a unitary fund, inalienable and indivisible. It contained all means of production, including raw materials and circulating capital. But how did this arrangement work in practice – how could “the state” create production with its “unitary fund”? The most important relationship after the state’s ownership prerogatives was based in the so-called right of direct (or operational) administration – what I will refer to as “administrative rights” – organized in what I will call, following anthropologist Max Gluckman, a hierarchy of administrative estates (Gluckman 1943; Humphrey 1983). These rights were not exercised only at the top, however, but were allocated downward to actors at lower levels; some of their recipients were empowered to allocate them further. Here is Heller’s account of how it worked:

Instead of assigning an owner to each object, socialist law created a complex hierarchy of divided and coordinated rights in the objects it defined.... The law integrated ownership of physical assets within overlapping state structures, often linking upward from a state enterprise, to a group of similar enterprises, to the local and then central offices of a ministry responsible for that branch of industry” (Heller 1998, p. 629). That is, the Communist Party planning mechanism granted administrative rights to ministries, state-owned enterprises, and local authorities, who might further allocate their administrative rights downward, in the name of both the Party and their bureaucratic segment or firm. The same idea appears in a statement by Romanian legal specialists Lupan and Reghini: “In order that the state’s property have productive effect, the socialist state institutes with respect to the goods belonging to it a right of direct administration, for its subunits, and a right of use, for cooperative organizations and physical individuals” (1977, p. 54).

Through granting administrative rights, then, the party-state retained its claim to supreme ownership but exercised that ownership by allocating use and administrative rights to lower-level entities, assigning parts of the property of “the whole people” to inferior levels in the bureaucratic hierarchy. Crucially, this system of multiple and overlapping administrative rights permitted myriad transactions to occur without the institutions and forms associated in capitalism with changes in ownership, such as mortgages or sale contracts (Feldbrugge 1993, p. 231). For instance, if one state enterprise made a contract with another to deliver its product – say, a piece of machinery – the machinery was at all times state property. Its owner did not change; all that changed was who held the power of administrative rights over it. Thus, the director of the first firm held the power to dispose of the product to the second firm – a power common to ownership relations – but ownership did not change thereby.

An important result of the patterns I have been describing was that because the units that received administrative rights thus entered as jural persons into direct relation with means of production, their managers could come dangerously close to infringing on the state's property right, even treating the firm and materials as their fief and some of the revenue as their own. The "underground factories" reported for the Soviet Union, for instance, involved managers' employing entire sections of the workforce and the infrastructure of the factory for production entirely on their own, and then keeping the proceeds. Indeed, the inability of the political center to keep these actors in check, and their gradually increased autonomy in consequence, were critical elements in socialism's transformation (e.g., Staniszki 1989). Especially once central control began to weaken in the mid to late 1980s, these managers arrogated state powers, even selling off state assets – often to themselves. By the time privatization officially commenced, many of socialism's erstwhile directors were well on their way to being private owners, a process that socialism's hierarchy of administrative estates had facilitated. For this reason, it would be inadvisable to see administrative rights as an insignificant form of property relation. Their exercise in practice constituted state firms – particularly their directors – as powerful actors.

Socialist managers would exercise their administrative rights within socialist property in several different ways. One set involved moving around large-scale means of production – such as the machinery mentioned above. In agriculture this took the form of moving control over land among state farms, collectives, and individual households. These practices would have consequences decades later when those farms were disbanded. For example, because the early collectives had to show good results so as to "attract" more members, farm heads consolidated the pieces already donated to make compact fields of good quality that they could cultivate "rationally". That both state and collective farm heads were able to allocate rights to land at will, enjoying priority over private property rights, enabled them to reorganize the landscape for their convenience through numerous land exchanges. These were of three kinds: between collective/state farms and individuals, between collective and state farms, and among collectives or among state farms. That is, the exchanges occurred across three of the four main property types and all three kinds of owners.

In Romania, for example, Decree 151 (1950) enabled collectives-in-formation to create contiguous parcels by exchanging land with individual private owners who had not yet joined the collectives. Often, the land of villagers who had joined the collective or its precursor did not form contiguous blocks; officials had the right to create these by compelling non-members with land in the middle of a good field to exchange it for parcels at the edge. State farms seeking to consolidate their fields had the same prerogative. Individuals could not refuse these exchanges, having to accept parcels much inferior to those they had been compelled to turn over. Indeed, the decree stated that the contracts for such exchanges were valid

even without the signatures of the owners thus displaced, as long as the local authorities invoked decree 151 in their records. Technically speaking, farm officials were supposed to make and archive such contracts, but often – from haste, or carelessness, or confidence in the supremacy of their own property form – they did not. Their cavalier treatment of land enabled farm members after 1989 to challenge the jural status of such earlier exchanges so as to recover their better-quality parcels.

In the same spirit of rational cultivation, state and collective farms often exchanged their donated or confiscated lands with each other. Because farm directors administered the property rights to the land (albeit via different mechanisms), they could dispose of it as necessary to pursue their objectives; the wishes of the former owners had no place in such exchanges. Leaders could even enforce exchanges on private owners living in uncollectivized areas, whose private property lay at the bottom of the hierarchy of property forms.

All these exchanges altered the landscape fundamentally, creating large, undivided fields from the intricate patchwork of tiny parcels owned by persons from multiple places. Farm managers could do this, moving parcels formerly owned by myriad individuals like so many pieces on a chessboard, precisely because they enjoyed far-reaching rights to acquire and dispose of landed property, indifferent to the possible rights of the former private owners (and even to whether the land was legally state or cooperative property). Treating all collective lands as a single fund, farm managers could trade them with other units, without having to record a “property transfer” in the land registry books. After 1989, these deedless exchanges would create havoc for reconstituting private ownership.

APPROPRIATION AND COUNTER-APPROPRIATION

Another way in which socialist managers exercised their administrative rights involved moving around items of smaller scale – not land, for example, but bags of fertilizer or apples. These items might either be allocated to them as raw materials for production (fertilizer) or come from the production process itself (apples), destined for consumption. Managers’ right to move these items around at will contributed to one of the hallmarks of socialist political economies: widespread barter and trading of goods, practices necessary for production in socialism’s “economies of shortage” (see Kornai 1980; Verdery 1996, ch. 1). Managers’ behavior could aggravate this shortage, for they operated within soft rather than hard budget constraints and also within plans, which assigned them production targets; therefore enterprises hoarded their materials. In all types of firms, managers struggled to secure extra resources and to hide them from state agents who came expressly to squeeze them back out into the state property funds. Because glitches in socialist planning and distribution could prevent managers from mobilizing the necessary raw materials for the level of production expected of

them, they not only demanded more inputs than they needed but held onto any excess they received or were able to produce themselves. Technically speaking, it was only the managers holding administrative rights to state property who could do this with one another, but in practice they were linked in giant trading networks with the managers of cooperative enterprises (like collective farms) as well.

If enterprise managers helped to generate shortage by hoarding, however, they also strove to reduce its effects by widespread barter. They traded with other managers whatever they might have in excess supply in exchange for inputs they needed. Although these practices did not fully alleviate the problem of obtaining resources for production, since one could not always count on covering all one's needs through one's network at the necessary times, they became an integral and time-consuming part of socialist production in both agricultural and industrial settings. Reforms introduced in each East European country during the 1960s and '70s modified economic organization and sought to make managers more accountable for their production costs, without, however, eliminating these horizontal trading networks. After 1989, those networks would prove to be sources of "social capital" – and they would be an effect of the exercise of administrative rights within socialist property.

This far-flung system of exchange rested on the personal relations of enterprise directors. It involved both items necessary for production and also the exchange of favors and gifts that might enable a director to obtain needed goods at a later time. Such exchanges formed a kind of "gift economy" that oiled the joints of the socialist economy. The gifts often came from the production process itself – especially in agriculture, where directors appropriated immense quantities of apples, vegetables, or grain to send to their cronies and party superiors. The return on such gifts might be looser plan targets, special bonuses, access to raw materials otherwise hard to obtain, or generalized goodwill. Moreover, as Caroline Humphrey has brilliantly shown (1983), participation in such exchanges might be crucial to obtaining effort from those in one's workforce. What made the exchanges possible to begin with, however, was the granting of administrative rights, which entailed managerial discretion over the use of various kinds of socialist property.

Such personalization of items from the socialist property fund was rampant throughout socialist economies. As Martha Lampland has argued (1995, p. 262–266), even to call it "personalization" may misrepresent the reality, for the line separating personal gain from the pursuit of advantage for one's unit was often difficult to draw. Moreover, officials who engaged in such behavior were not protecting only themselves: they were creating an umbrella for whole retinues of their own – virtually the entire leadership group of the collective, for example, or at least the director's faction within it. And they were helping to make similar umbrellas for their superiors, in vast pyramids of patronage that reached to the top of the system.

A major consequence of these practices, however, was that the boundaries within the unitary fund of property became blurred, and objects might move among numerous persons exercising with respect to them rights that were akin to ownership rights but were not consecrated as such. For example, two firms that regularly traded raw materials for production, such as a shoe factory and a factory that made leather coats, might not have clear boundaries around their “inventory”, since the goods in any firm’s fund of circulating capital were fungible, enabling timely substitution of materials from other enterprises. Distinctions between state and cooperative property were irrelevant in this huge “unitary fund” of socialist property; means of production and product as well belonged to “everyone”, but particularly to those who managed social resources. The “fuzziness” of boundaries around socialist property makes determining both the ownership and the assets of either firm a complex process.

My discussion so far has shown how socialist managers used the official system of administrative rights to accomplish their goals while oiling it with unofficial exchanges so it would work. I also observed that these exchanges might entail removing from circulation large portions of the goods their units produced. What about the members of these enterprises, the people whose land and labor made everything possible? How did they feel about socialist property and all that managerial maneuvering? At the bottom level of the hierarchy of estates, the struggle over conflicting forms of appropriation came to a head. It was here that managers’ strategies for making their enterprises produce might set them at odds with their direct producers. We see this especially well with something that occurred in all types of socialist firms: “theft”. I will illustrate it with theft from collective farms.

The total product of a collective farm was finite and could support only so many destinations. If farm directors gave priority to delivering on their contracts and to the gift economy, there could be little left for paying members. Indeed, the chronic complaint of collective farm members in nearly every country was that their work was woefully underpaid. This fact led them to leave agriculture for industry, if they could, and, in a “natural” form of counter-appropriation, to take things from the collective. Inspiring this was the example of their superiors, whose behavior made it fairly easy to see the collective product as “ours” for the taking. Although theft of socialist property was punishable by much heavier penalties than theft of personal property, villagers never saw their farm president sanctioned for the uses he made of their collective product. How could one distinguish “theft” from “gifts”, in such circumstances?

In this way, when the heads of socialist firms unofficially moved goods into the socialist gift economy, they further blurred the boundaries within socialist property. Their self-interested notion of collective ownership or at least collective entitlement generalized downward from those who were not prosecuted for it to those who were, for collective farmers might be prosecuted for stealing just a few

potatoes or a sack of corn from their places of work. Even if laws to this effect were rarely applied, abundant anecdotes attest to a climate of constant vigilance by farm officials and to the constant concern of members about being caught. Villagers who engaged in these practices generally presented themselves as having a right to take from the collective – indeed, some claimed that it was inappropriate to use the word “theft” for such behavior (e.g., Humphrey 1983, p. 136). They saw their collective property as producing goods that belonged to them and to which they had a right, even if they sometimes had to appropriate those goods on their own. In this respect, theft of CF products was a defense of their personal property right against what they saw as illegitimate appropriation by farm officials.

When villagers were prosecuted for theft of collective farm produce, two fundamentally different conceptions of ownership came into conflict, conceptions rooted in one’s place in the political hierarchy. “Theft” as a construct presupposes a system of clearly defined persons, objects, and boundaries that separate them; theft is a violation of those boundaries, as one agent takes something from a bounded fund of objects to which another agent lays claim. In the official organization of socialist property, the system of boundaries was three-tiered. The strongest boundary separated the “patrimony” of “the whole people” (the entire country) from that of other countries. Inside that boundary was another one separating socialist from private property; for purposes of this discussion, that boundary was the most consequential. Within socialist property there was yet another boundary, very weak and rarely observed in practice, separating state from cooperative property. Actors could appropriate the socialist product by moving things upward (across the boundaries between private and socialist, or collective and state) or laterally within a given category. What was unacceptable to the authorities was any movement of goods downward across the boundary between socialist property and lower types. That was theft. Party officials did plenty of it, but those appropriations often disappeared into the much larger flow of gifts and tribute upward. In equating their own appropriations with those of officials, collective farmers made the mistake of not realizing that what mattered was the direction in which their appropriations moved.

IMPLICATIONS

I have been arguing that contrary to Frydman and Rapaczynski’s claim (see epigraph) about socialism’s “not having any property system”, it had a very complex one. To grasp that system has required setting aside questions about ownership and looking at patterns of use, administrative rights, and social networks of appropriation, exchange, and reciprocity. Laws and administrative measures defined a specifically socialist property regime encompassing both agricultural and industrial production, in both state and cooperative enterprises. To solve the problem of producing within a system of centralized appropriation, communist

parties established hierarchies of administrative and productive estates, held together by delegating administrative rights. These rights (the most important form of property right in socialism) were intended to link the different legal property types and to establish specific relations to values and goods. Translated into practice, however, these ceased to serve as rights over things but entered into social relations that privileged rights over people. Extended networks of reciprocity moved products upwards, laterally, and downwards, all in the service of collecting people whose goodwill, trades of raw material, protection, patronage, and effort would put socialism's productive means into motion. Those patterns, however, placed multiple demands on the social product and generated an ongoing struggle – more intense in countries such as Romania and Albania than in others – around appropriation at the bottom. Here the politics of appropriation within the hierarchy of estates in socialism's property regime came full circle.

This organization of property had major implications for the postsocialist property order that would take shape after 1989, particularly in agriculture. The policies of decollectivization initiated then aimed to undo the system I have described and to create or recreate private property, the form most disdained in socialist planning. How does my discussion here prepare us for the problems this transformation would encounter? I will suggest three general points that I believe are applicable to some extent for all postsocialist countries. They concern the evaluation of socialist assets, the hierarchy of property types, and the relation of administrative to legal regulation.

As a property regime, socialist property instituted an entirely new set of values, based in an ideological opposition between “socialism” and “capitalism”. The values I have noted here were 1) administrative rights (rather than market forces) as the basis for moving goods and assessing their worth; 2) a hierarchy of actors and statuses, with the state at the top managing the patrimony of “the whole people”, smaller cooperative entities holding common resources, and private property in households at the bottom; and 3) the priority of an administrative over a juridical definition of property. Each of these sets of values would have consequences for postsocialist property transformation.

I begin with the movement of goods by administrative means. Socialism's property regime established among people and goods a set of relations that did not rest mainly on a commodity basis. One goal, of course, was to erect a bulwark between the socialist and capitalist worlds, to protect local resources from being sucked into external capitalist markets. Serving that end were the strictures against any form of alienating socialist property, even by the party-state itself, and the insistence on the integrity of the unitary fund belonging to the whole people and administered by cadres. Thus protected from the market, the resources controlled and appropriated within socialist property relations were subject to evaluative criteria driven not by the market but by politics (e.g., what one's patron wanted, what kinds of production would best fortify the Party's power – rather than how

profitable an activity might be). Under these arrangements, it was exceedingly difficult to assess the “book value” of firms being privatized, since the state, as the ultimate holder of financial obligation, had absorbed most of the liabilities of its subordinate firms, and the materials a given firm utilized in production were so often not those the state had allocated to it. After 1989, the problems of evaluating the assets of socialist enterprise, including both state and collective farms, would defeat even the smartest economists. Questions of value, from the most basic (what kind of life do people want to live) to the niggling details of a firm’s purchase price, joined with questions of morality to dominate public consciousness. Who ought or ought not to be profiting from the wealth accumulated under socialism—the former managers of state firms? foreigners? the general public?

Some answers to these questions came from a second aspect of the socialist property regime: its creation of a ranked hierarchy of forms, with those of the state at the top, cooperative/collective forms second, and individuals/households (especially those with private property) at the bottom. This hierarchy produced a very powerful class of state-enterprise directors benefiting maximally from state resources and from their control of administrative rights over these. Even before 1989 they had begun using these rights to decompose state property from within, thereby weakening the political center (see Staniszkis 1989). As that center grew weaker, the power of these directorial networks intensified. In short, socialism's property regime gave a decisive edge in the postsocialist era to a specific group of actors: state enterprise directors. They were used to manipulating the fuzzy boundaries of socialist property, to moving resources around to maximum advantage. They disposed of large funds of social capital, in the form of their networks, and of cultural capital, in the form of their higher education and more extensive experience with the most modern technology their national economies could support. In agriculture specifically, we see the advantage of state over collective property in the greater cultural and social capital of state than of collective farm heads. State farm directors had wider circles of connections, more complex managerial experience, greater familiarity with new farming technology, better-endowed farms from which to strategize their exit, and so on, all owing to the higher position of state over cooperative property forms. Although international blueprints called for privatizing ownership rights, these socialist managers began by privatizing only their administrative rights, enabling them to avoid the liabilities of ownership by shucking those off onto the state, while still drawing upon central investments.

In this they were aided by socialism’s overlapping estates of administration, which had socialized responsibility so thoroughly that the buck never stopped anywhere but continued to circulate in “gifts”. They were aided, as well, by the alliances these circulating gifts entailed. Networks of directors, as Stark (1996) has shown, could use their administrative advantage to resist competitive privatizations – quite successfully, in places like Romania and Ukraine, where local actors

worked to keep foreigners out. Indeed, Stark suggests, the unit for privatization ought never to have been made the individual firm but, rather, the interfirm network. In some countries these networks would generate viable capitalist firms; in others, they would obstruct the privatization process, even using it to fortify their power by continuing to surround themselves with retinues of petitioners. This resistance would make it difficult to create the property “bundle” so dear to the advocates of private property and would perpetuate use-right arrangements similar to those of the hierarchy of administrative estates. Although it is not surprising that state enterprise directors tended to fare well in the postsocialist period, my purpose here has been to show how their future success was already inscribed in the property regime of socialism, as was the disadvantage of certain others.

Finally, I turn to the party-state’s preference for politico-administrative over legal procedures. This preference entailed making decrees and administrative decisions about the use of resources but not necessarily ratifying these decisions by the legal procedures that had governed property transformation in pre-communist times. Region-wide, 1989 initiated a process of reversing this set of priorities, attempting to create the “law-governed state”. The logistical nightmares encountered in that process were legion. To illustrate, I will discuss an example involving the ownership status of the land held in collective farms (which, as I noted, was not state-owned in most countries but belonged to the members jointly).

During the socialist period, land was administratively moved around more or less at will among collectives, state farms, and households; because who “owned” it was rarely an issue, officials generally did not record the changes by inscription in the land registers when they exchanged parcels or modified land use. But after 1989, ownership suddenly mattered very much. Had the members relinquished ownership rights altogether upon joining the collective, or did those rights maintain some kind of shadow existence throughout? What did the joint ownership of cooperatives actually mean, from a legal point of view? Did membership mean transferring actual title to physical land or, rather, transmuted that into ownership of shares, comparable to the rights of membership in a corporation, as suggested by Linda Miller (personal communication)?

Post-1989 legislators argued these questions at length, and the answers differed by country, as did the ownership status of collective farm land (see Knapp 1975). For Romania, lawyers with whom I discussed the issue gave contradictory accounts, as do Romanian law books. Writing about the status of cooperative land as part of their discussion of decollectivization, two Ministry of Agriculture legal specialists state both that “the cooperative appeared as the titular of the property right and thus exercised possession, use, and alienation over lands of any kind in its patrimony” and that “the land continued to remain the property of the cooperative member” (Scrieciu and Chercea 1996, pp. 524, 534). The matter was crucial, for the answer to it would affect the policy options for property reform. If farm members had in fact retained some ownership rights, then after 1989 a new

“law-governed state” could only confirm their ownership, rather than (re)create it. That is, collectives would have to be unmade by restituting or reconstituting prior ownership rights, rather than by impropriating owners or distributing the land exclusively to people who lived in villages, or by some other kind of land reform. Indeed, restitution would require no separate law, merely the members’ joint declaration to dissolve the collective, at which point everything would revert to the status quo ante. – Never mind the complexities of discovering what that was, after so many years of exchanging land, erasing boundaries, and transforming the landscape (see Verdery 1996, ch. 6).

The more significant underlying issue, however, is this: from the vantage point of what mode of regulation – legal, or politico-administrative – should the question be answered? Although law did have its place in the socialist system (increasingly so, as time went on), “legality” simply did not have the same status or legitimating function in the socialist property system that it has in market democracies. Property law was a supplement to the more active principle, property administration. Moving from such a regime to one supposedly grounded in law and judicial process raised innumerable difficulties concerning whether and how to translate administrative decrees into the language of the law in order to formulate policy. Can we select out the “law-governed” aspects of the socialist system and build a new one upon those? Or must we retroactively legalize that system – even though the premise of the 1989 events was its illegitimacy – in order to proceed?

For those who regard the entire communist period as illegitimate, none of its acts has legal status. Hence, trying to determine and reverse the legal effects of an administrative decree is pointless; one need only make new laws. The weaknesses of this position include the following. To declare the acts of the socialist period illegal ignores the judicial maxim of *tempus regit actum*, which posits that the status of an action in its original context should govern how it is regarded now. If an administrative decree “acquired the force of law”, as we might translate it, then those effects should be taken seriously in disposing of present ownership claims. Moreover, dismissing the entire socialist period as illegal wreaks havoc on a notion of law-governed practice rooted in predictability and continuity: how can one simply hop over the intervening “illegal” 45 years and assert new ownership, without compromising the principle of a just claim?

The alternative is to recast the acts of that period in terms that permit continuity, even if to do so is to legitimize the system one seeks to displace. That is, restitution builds political legitimacy paradoxically: instead of playing up the illegitimacy of the old regime, it may require first legalizing the status of property under socialism so as to return rights to previous owners. The status of land in Hungary, Transylvania, and Slovakia offers a particularly clear example. There, the Habsburg-derived system of land registration meant that no transaction could be performed except on the basis of a previous legal transaction recorded in the land register. For me to receive back a parcel of land upon which the collective farm built a structure, I must first have the structure and the parcel it stands on written

into the register as belonging to the collective farm and then re-register it in my name. This procedure effectively legalizes the seizure of my parcel and the new use to which it was then put – that is, the procedure runs directly counter to the premise of unlawful seizure upon which restitution is based!

The work involved in retroactively legalizing 45 years of transactions, however, would be unmanageable. The complexities relate not only to the legal status of different kinds of resources but also to the weak or fuzzy boundaries that characterized socialist property. Lacking clear edges, it was held together by social relations that were reticular and rhizomatic, that worked across property types. Those uncertain edges could be advantageous, as David Stark (1996) has argued for “recombinant property”. In agriculture, they could also produce chaos. All the moving around of resources, the exchanges of parcels, the hiding of land, the erasure of field boundaries; all the uncertainties about the ownership status of collective and state farm land; all the failures to write land transactions into the land register – these would make it extremely difficult to reestablish ownership rights once socialism was ended.

In this essay I have presented property in and after socialism as a quintessentially political matter – as part of a political economy. The politics of property resided at many levels: in the new mechanisms of appropriation that socialist property forms enabled; in the political relations of subordination and the administrative rights accompanying them; in the political values determining the hierarchy of owners and of property types; in the appropriations of productive resources by socialist managers helping their allies and currying favor with patrons; and in the counter-appropriations by various kinds of workers. These forms of politics in property shaped the trajectory of ownership that would emerge after 1989, as managers attempted to retain certain features of socialist property so as to drain state subsidies into their newly private firms; as persons well situated in the hierarchy of property types would often find themselves well situated to move into new forms of ownership, at the expense of others less favored; as local officials would manipulate the uncertainty about prior ownership to deny some people's claims in favor of their clients and friends (see Verdery 2004). The extent to which property transformation would be politicized and the means of doing so varied from one country to another. In all, however, its politicization under socialism would shape the outcome, affecting as well the legitimacy of a postsocialist property regime.

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