

## The Property Regime of Socialism

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Katherine Verdery

IN THEIR INTRODUCTION to this set of articles, Janet Sturgeon and Tomas Sikor ask whether we are justified in lumping together Central European and East Asian cases of property transformation. Their answer to this question is 'yes', despite significant differences that result from the collapse of socialism<sup>1</sup> in East-Central Europe on the one hand, and its maintenance with modifications in East Asia on the other. They also suggest that cases from both areas have things in common that distinguish them from apparently similar post-colonial situations. Among the differences they emphasise is the relative absence of rules and regularised practices in the socialist/post-socialist cases as compared with the post-colonial ones. The disarray of rules and routines is greater in East-Central Europe than in East Asia, but in the realm of property transformation both show greater instability than the post-colonial cases. In the socialist cases states attempted to compel private ownership and greater responsibility for resource management onto lower-level populations, some of whom resisted it while others—local elite in particular—profited from it. Post-socialist property transformation everywhere had the aim of freeing central authorities from having to provide for the rural population. Giving it rights to land would enable greater self-sufficiency, a boon to governments struggling under increasing economic crisis. Post-colonial property regimes, by contrast, did not radically dismantle colonial-era institutions so much as alter the personnel who staffed them; changes in property relations followed gradually, as post-colonial governments brought into programmes of 'development'.

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It is my task here to sketch the socialist property regime from which the East-Central European and East Asian cases have all diverged during the 1990s, as firm central control over propertied resources gave way to devolution of property rights. In particular, I indicate how, from the vantage point of the exclusive, individualised private ownership preferred by neo-liberal actors, both socialist and post-socialist property forms appear ‘fuzzy’. That, in turn, has implications for our understanding the process of privatising, or decollectivising, landed resources.<sup>2</sup>

I am moved to inquire into how socialist systems organised property in part from a comment by Roman Frydman and Andrzej Rapaczynski, two influential observers of the privatisation process in East-Central Europe (see Frydman et al. 1993, 1998). In discussing socialist property, they write:

All property-related arrangements in general [were] replaced by an administrative system in which the state preferred to control the behaviour of each agent directly, rather than relying on his own pursuit of self-interest. In this sense, the socialist economies of Eastern Europe did not have *any* property system . . . governing their productive activities. It is not surprising, therefore, that in all East European countries it is nearly impossible to answer the question of who owns what in the state enterprises: the legal determination of ownership was simply irrelevant under the old system, which relied instead on directly prescribing the conduct of factory officials. (Frydman and Rapaczynski 1994: 11)

Although I agree that it is difficult to determine ‘who owns what’ in state-owned enterprises, I disagree that socialism had no property system: it had one, but the categories and operation of that system differed fundamentally from those of market economies. Understanding how property worked in socialist societies helps us to discern how its prior organisation affects property making in post-socialism—something we miss if we assume that socialism’s collapse left a tabula rasa upon which new forms could be written unproblematically. Precisely this assumption led Western architects of privatisation to believe mistakenly that with a little tinkering here and there, capitalist private property would naturally spring forth from the ashes of ‘formerly existing socialism’. The evidence of the 1990s seems to me to refute that assumption.

My use of the expression ‘socialist property’ reifies and homogenises a reality that was much more complex, with variations occurring both across the region and through time. But in the space available to me, I can offer only a schematic, condensed account, aimed at clarifying the problems of making ‘private property’ from the property relations of socialism. Although my use of literature primarily from the Soviet bloc might make my account less than fully applicable to East Asian socialisms, the authors of the articles on East Asia in this set seem to find it apt enough.

I should begin by stating how I understand the notion of property. In most writing about it, property is treated as a political and economic relation, often

posited as the basis of democratic politics and stable market economies. While not rejecting this approach, I prefer instead to see property more complexly as a cultural and social relationship and a system of power. It is a cultural construct by which persons are linked to one another and to values through culturally specific idioms. Property is also about boundary making: it sets up inclusions and exclusions, ‘belongings’, including what ‘belongs’ to whom and who belongs to or has affinities with some larger entity that occupies a relation to specific values or objects. In addition, I see property concepts as part of power arrangements. Power affects *which* actors and relations are recognised 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, and this is 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. Therefore, I see property as simultaneously a cultural system, a set of social relations and an organisation of power, all coming together in social processes.

Using this framework, I organise 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 emphasise the categories as formally constituted in law; I discuss how they functioned in practice in the subsequent section. Second, I consider it as a system of power and social relations: how did these categories work within social relations, 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.

#### TYPES OF PROPERTY AND OWNERS

One way to gain access to socialist property as a cultural system is through its legal categories, which give 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, for example, observes that whereas the categories of market-based economic and legal systems emphasise types of property (such as ‘real’ and ‘personal’ property, ‘tangible’ and ‘intangible’ property, or state, common and private property), focusing on the scope of individual rights for each, socialist property categories emphasise, rather, the *identity of the owners* and their social relations (Heller 1998: 628). Socialist law recognised four property types: state property, cooperative property, personal property and private property.<sup>3</sup> These related to three principal property owners: the state, socialist cooperatives (together with other non-producing socialist organisations) and individual persons. The ‘state’ owned state property (though, technically speaking, the owner was not the state but another

abstract entity, ‘the people as a whole’); ‘cooperatives’ owned cooperative property (technically, the owner was the collective membership of that cooperative, not a larger socialist entity); and ‘individuals’ owned personal and private property, distinguished in that personal property consisted of items of consumption, private property of means of production. Of these types of property and owners, state property/ownership was the most important; all other forms were subordinated to it. For example, the cooperative property held jointly by members of a collective farm was ostensibly separate from state property, but if a state farm were being expanded into the lands of that collective farm, no one had qualms about annexing the collective’s land without acknowledging the rights of farm members over it. Although for both cooperative and state property the property right was absolute, exclusive, inalienable, knew no statute of limitations and could not be executed against 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: 54–55, emphasis original). This superiority of state property accompanied a peculiar aspect of it, namely, that the state exercised its property right both as *owner* and as *titular of sovereign power* (ibid.: 62–63, emphasis original). Lower-level ‘owners’ did not benefit by this over-determination of their proprietary status.

The three types of owners 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 (1988: 179) 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’. Thus, jural personhood was a function of property status, and to be a jural person automatically entailed having certain property rights.

#### ADMINISTRATIVE RIGHTS AND EXCHANGE RELATIONS

A jural person 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 organisations (such as the trade unions or the Councils of National Minorities) or lower-level territorial units. Understanding this is crucial to understanding how state ownership worked, which requires us to stop asking about ownership—far from the only way of organising property—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, which contained all means of production, including 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’—organised in what I will call, following Max Gluckman, a ‘hierarchy of estates of administration’.<sup>4</sup> 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 Michael Heller’s (1998: 629) 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.

That is, the Communist Party planning mechanism granted administrative rights to ministries, state-owned enterprises (SOEs) and local authorities, who might further allocate their administrative rights downward. The same idea appears in a statement by Romanian legal specialists Lupan and Reghini (1977: 54): ‘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.’ Importantly, the downward allocation was not seen as compromising the integrity of the whole.

Through granting administrative rights, the party-state retained its claim to supreme ownership, but exercised that ownership by granting use and administrative rights downward to lower-level entities. This system of multiple and overlapping administrative rights over the unitary fund of state property permitted multiple transactions to occur without the institutions and forms associated in capitalism with changes in ownership (Feldbrugge 1993: 231). For instance, if one firm 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. It was not only finished products that socialist managers moved around, but also items needed for production.

An important result of the patterns I have been describing was that because the units that received administrative rights thereby 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 theirs. 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. Indeed, the inability of the political centre to keep these actors in check, and their gradually increased autonomy in consequence, were critical elements in socialism's transformation (for example, Armstrong 1983; Staniszkis 1989, 1991). For this reason, it would be inadvisable to see administrative rights as an insignificant form of property relation.

Managers' right to move items of the socialist patrimony around at will contributed to one of the hallmarks of socialist political economies: widespread barter and trading of the goods necessary for production in socialism's 'economies of shortage' (see Kornai 1980; Verdery 1996: 19–38). The fact that firms operated within soft rather than hard budget constraints and also within *plans*, which assigned them production targets, led enterprise managers to hoard both labour and materials, including not just those provided by the state but also materials they themselves produced above plan targets. Managers of all types of firms struggled to secure such extra resources and to hide them from state agents who came expressly to squeeze them out into the state property funds. Because glitches in socialist planning and distribution could prevent managers from mobilising 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. The resulting far-flung system of exchange involving gifts and favours justifies seeing socialism as a form of 'gift economy' (Dunn 2004; Strathern 1988). A major consequence of these practices 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. Two enterprises that regularly traded raw materials for production, for example, 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.

Personalisation of socialist property was rampant throughout socialist economies. It was practised by those holding administrative rights over state property as well as by heads of cooperatives administering their property directly. Officials who engaged in such behaviour 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 the top of the system. Distinctions between state and cooperative property were irrelevant in this huge 'unitary fund' of socialist property. Means of production as well as the product belonged to 'everyone', but particularly to those who managed social resources. The ambiguity of the boundaries around socialist property makes determining both the ownership and the assets of any enterprise a complex process.

The above picture has emphasised primarily the behaviour of socialist managers and bureaucrats. In my opinion, those were the people most important in shaping

how socialist property 'worked', but the behaviour of others was also significant in that outcome. For lack of space, let me make three brief points about those others.

First, the workers in socialist enterprises, including agricultural ones, sometimes participated in the hierarchy of administrative estates just as managers did. For example, chairmen of collective farms allocated to their members the right to use small plots of land—usufruct plots, often wrongly labelled 'private' plots—for growing food. In other words, farm chairmen allocated downwards the administrative rights over this form of collective property, and individual farmers could generally do what they wanted with it, using the products as they saw fit.

Second, in cultivating these plots, they would appropriate materials from elsewhere in the socialist property fund, just like socialist managers. They would take grain from the fields, for instance, to feed their chickens at home, or go out at night to cut hay from collective lands, feeding it to their cattle. Their superiors considered this 'theft', of course, and prosecuted it, just as the state prosecuted those socialist managers found to be running underground factories or otherwise diverting too much state property for their own use.

Third, also like their superiors, farm members might come to see their *use* rights as resembling full *ownership* rights, as I found in a number of interviews on socialist property.<sup>5</sup> Asked what remained 'theirs' after the collective farm was created, many of the Transylvanian villagers I interviewed replied that their house, courtyard and usufruct plot remained theirs. Only when I pressed them further did they conclude that the plot was not in fact theirs to use and alienate exactly as they wanted; it could be taken away for non-performance of work obligations to the collective, for example. This sense of ownership confirms the blurred boundaries, to which I referred above, that failed to set socialist property off decisively from personal and private property.

## CONCLUSIONS

What messages does the foregoing analysis suggest for the processes of post-socialist property making? The articles in this special issue answer that question in a variety of ways more fully than I can do here, illustrating at least four directions for research that seem to follow from my discussion of socialism's property regime. The first concerns the subject of forests, treated by several of these articles. Forests were quintessential forms of state property. Some of these articles have shown how the post-socialist fate of forests has entailed reinforcing the processes through which their lowest-level administrators had already begun to act like owners, usurping the centre's control, and other articles have shown how local villagers resisted these managerial appropriations of the state's authority.

The second research direction concerns the matter of boundaries. As I have suggested, there were no boundaries within socialism's 'unitary' state property fund, and weak or blurred boundaries separated that form from other types of property. Yet effective privatisation means creating precisely such boundaries, so

as to assign the full set of ownership rights to individuals who will not only hold individual ownership rights but also be responsible for the liabilities attached to the property. Hardening and clarifying the boundaries is part of the process of creating stakeholders who have a clear interest in the process, but the result can also be (over the short to medium term) intermediate forms of ‘fuzzy’ or recombinant property (see Stark 1996, Verdery 1999), as evident in these articles.

Third, also part of boundary making is breaking up the hierarchy of administrative estates. To some degree, the hierarchy was already disintegrating both because the Party’s monopoly was undone or undermined, and because of the economic crisis that both preceded and accompanied the transformation of socialist property rights. The articles show something of the mad scramble that ensued as people at different levels in the former hierarchy asserted their control over the land and forestry resources that were ‘freed’ for lower-level proprietary claims.

Fourth, in future work we should underscore the prevalence of something resembling *use rights* as the foundation of socialist property. Remembering Malinowski’s dictum that property is better understood through asking about use than about ownership, we find this idea especially useful in examining the supposed transformation of a socialist system based on complex and overlapping rights of use into one ideally based in a clearly bounded ownership ‘bundle’. What is especially interesting about thinking of use rights is that, in contemporary capitalism increased emphasis is being placed on leasing use rights, as opposed to worrying how to define ownership. Bio-prospectors, gene splicers, music companies and so forth are finding it so complex to define ‘who owns’ a resource that they *lease use rights* to it instead, sometimes paying into funds (as some pharmaceutical companies have done for ethno-botanical knowledge) that may eventually be distributed to someone somewhere, if anyone can manage to identify the appropriate recipient. Might this mean that the prevalence of use rights in socialism makes this kind of property system adaptive in the present time? If so, then breaking it up may have been precisely the *wrong* thing to do.

## Notes

1. I use the term ‘socialist’ in preference to ‘communist’, for although the governing parties of the former Soviet bloc were called Communist Parties, none of them claimed to have achieved the stage of Communism; they referred to themselves as *socialist* republics.
2. It matters, for instance, whether one reworks land-ownership from a situation in which pieces of land were treated as interchangeable and unbounded, their edges blurred, as opposed to one in which boundaries have been clearly marked. It will be much more difficult to establish precise ownership in the former case. Again, in determining managerial accountability for property rights, it matters whether the previous managing units were individuals or networks, and how they understood their responsibility with respect to socialist property.
3. I use the term ‘cooperative’ in referring to the category that includes both agricultural and the non-agricultural enterprises of the 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’. Even though the latter is the better translation for those entities in at least some contexts (for instance, the Romanian ‘*cooperativă agricolă de producție*’ [agricultural production cooperative]), I believe the term ‘collective farm’ is more widely used in English and carries connotations more appropriate than the word ‘cooperative’.

4. Caroline Humphrey (1983) was the first person to analyse socialist property arrangements using Gluckman’s model of property among the Lozi of Central Africa. I do not discuss his model at length here (see Gluckman 1943, 1965; Humphrey 1983: 118–39). The comparison is less outrageous than one might think, for in both one’s relation to property was a function of one’s socio-political status (Humphrey 1983: 4–5), and both were characterised by a redistributive social economy. Gluckman begins from the premise that the hierarchy of socio-political relations determined the hierarchy of property rights, that is, that politics took precedence over other kinds of relations—a reasonable premise for Communist Party-states.
5. These interviews were part of a project on decollectivisation, carried out in the Transylvanian community of my earlier research (see Verdery 1983, 1994). The work was supported by grants from the International Research and Exchanges Board (IREB), with funds from the National Endowment for the Humanities, the United States Information Agency and the US Department of State, which administers the Russian, Eurasian and East European Research Programme (Title VIII); and also by National Science Foundation. I am grateful for the support of these organisations, recognising that they might well disagree with my views.

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