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Political Identities and Property Restitution in Transylvania, Romania

Project Summary:

Statement of Problem. The changes produced by the fall of communist parties in Eastern Europe and the former Soviet Union offer opportunities both to investigate how such processes as privatization, democratization, marketization, etc. are unfolding and to reflect upon the very meaning and theoretical interconnections of these key western concepts. What *are* democracy and private property? Given that many theories of liberal democracy posit them as closely interconnected, exactly *how* are they linked, and what can we learn about this from watching Eastern Europeans try to create them?

Some scholars approach these questions by viewing democracy in a narrowly formal way (e.g., voting, protest marches, party membership, and petitions), and by thinking of property rights chiefly as matters of exclusive individual vs collective ownership. The present project, by contrast, emphasizes informal practices that contribute to forming political identities and social persons, and it sees property rights as complex and overlapping. It focuses on the privatization of land, to examine how newly apportioned rights to land are producing new possessing identities that lead people to defend their rights in court and in other ways; these actions and identities can be seen as elements of possibly democratic practices that are overlooked by other approaches to democratization as linked with property. Thus, the project — submitted for funding under NSF's "democratization" initiative — is guided by the questions, Where should we look for "the political" so as to talk about democratization? How does it intersect with local understandings of "property"?

Research Site and Methods. The project, already begun with IREX funding, is located in a Transylvanian community (Romania) in which rights to land are in the process of being returned; it includes regular observation of court cases in the county capital as well. Research methods consist of formal and informal interviews with a variety of people (villagers pursuing restitution, heads of other forms of agricultural enterprise, local authorities, judges and lawyers, and government officials), participation in the work of the village Land Commission, observation of events in court, discussions with parties to cases, reading newspapers, and copying statistics from local and county archives. These methods will produce a detailed picture of how property restitution is taking place, what kinds of rights (ownership or usufruct, exclusive or overlapping) are being created, how villagers think of themselves in relation to land, what activities they engage in to pursue their rights — particularly lawsuits and complaints to the commission — and what sorts of political identities and practices accompany these. The study's guiding assumptions are that because standard formal definitions of property and democracy are unlikely to suit the realities of Eastern Europe, the "successful" implementation of these forms must be approached as an open question, through field research. The result will be an ethnography of democratizing-practice-through-property.

Significance. 1) The study will clarify aspects of the process of decollectivization, on which very little has been written to date. 2) It will offer a specifically Transylvanian answer to the question, How are

democratic practice and private property linked?, thus broadening awareness of the various forms assumed by these concepts. 3) It will propose answers to the question, Where should we locate “the political” so as to assess the prospects for democratization in a more nuanced way than through people’s ritual participation in meaningless elections. 4) It will contribute to theoretical questions about the nature of “the state,” “democracy,” and “property” as concepts, thus permitting reflective criticism of foundational western political notions and enhancing theory-building about them.

Political Identities and Property Restitution in Transylvania, Romania

I. Statement of the Problem

The fall of communist parties in Eastern Europe and the former Soviet Union is producing manifold changes in the region’s politics, economic forms, and state-subject relations, usually spoken of as “democratization,” “privatization,” and the development of “market economies.” Aside from investigating how the changes are unfolding, scholars now have an opportunity to reflect upon the very meaning and theoretical interconnections of these key western concepts. What *are* democracy and private property? How are they linked? What can we learn about this from watching East Europeans try to create them?

Many scholars would approach these questions by defining democracy in a narrowly formal way through specific institutions and procedures, such as particular forms of popular participation (voting, protest marches, petitions, party membership), and by thinking of property rights chiefly as matters of individual vs collective ownership. The present project, by contrast, favors an alternative approach to democratization and private property, one emphasizing local practices as windows onto the formation of political identities and new kinds of social persons. It does this by investigating the privatization of land in Transylvania, treated as a locus for examining how newly apportioned rights in land are producing certain forms of “political participation” other than the standard ones, together with new possessing identities. The project will result in a description of property notions and political practices associated with owning — that is, an inquiry into the relation between property and political prospects — combined with a critique of ethnocentric conceptions of democracy, property, and state.

II. Theoretical Discussion

A. Property, Democracy, and Person in Political Theory

Despite fundamental differences in their orientations, theorists from Hobbes and Hegel through Foucault have all seen private property, specific solutions to the problem of sovereignty, and particular practices of government as linked together in characteristic ways in the lineage of capitalist societies. Some of this work explores how it is that owning something helps to constitute freedom, such as by freeing one from dependence on the opinions or the will of others. Beyond this, some theorists have also explored how, in the development of capitalism and liberal democracy, ownership and freedom have intersected in what we might now call (doing some violence to earlier meanings) “persons.” Locke, for example, saw property as what gives personality its political quality and as the tangible subject of an individual’s powers and attitudes — a concrete symbol of his rights (Locke 1960: 101- 102). One might say that for Locke, property is an objectification of personality. This is possible, however, only because free men through the exercise of reason have instituted government so as to *preserve* property. Similar elements appear in Hegel, in Waldron’s reading of him: private property constitutes both individual freedom and

personality. "A person is a unit of freedom aware of its sheer independence," says Hegel (1967, quoted in Waldron 1988: 353). Without private property, individuals cannot "develop the abilities and self-conceptions definitive of their status as persons" (Waldron, *ibid.*). For Hegel, the exercise of an individual's free will is embodied in objects, which register that free will and force it to become consistent and stable over time — something that does not happen if other people work on the same object (Waldron 1988: 360-374). Thus is property-owning fundamental to a certain kind of social person, whose stability and consistency rest on having a property stake in the consequences of one's actions.

Comparable notions of a specific kind of social person, as an aspect of property and a requirement of freedom, are to be found in Macpherson's critique of classic liberalism (Macpherson 1962). Introducing his argument as "a theoretical inquiry into the basis of the liberal-democratic state" (1962: 1), Macpherson reads the basic texts of liberal theory as premised on a notion of "possessive individualism," and he criticizes this construct in its relationship to the unbridled acquisitiveness of early capitalism. He concludes that the ideas of freedom, rights, obligation, and justice that emerged with modern capitalism and have been central to theorizing democracy have all been shaped by the idea of possession.

A very different set of approaches, found in contemporary social theory, emphasizes practices and discourse (e.g., Bourdieu 1977, de Certeau 1984, Foucault 1978 and 1979), rather than looking at institutions such as private property, the state, parliamentary democracy, etc. Foucault, for instance, examines techniques and practices of government, understood broadly as the "right disposition of things" or of the "complex composed of things and men"; property is but one aspect of this complex, and the state but one modality of government (1991: 93-94). "Freedom" enters into his concerns because it is the premise for the operation of modern power: power is power when it addresses itself to individuals who are free to act; it "presupposes rather than annuls their capacity as agents" (Gordon 1991: 5). What then interests Foucault is how those individuals become positioned as subjects of specific practices and tactics of power. As Burchell (1991: 120) puts it, "Governed individuals may be identified by their governors as members of a flock to be led, as legal subjects with certain rights, as children to be corrected and educated, [or] as part of a natural resource to be exploited. . . . In each case the subjective self-identity of governed individuals presupposed or required by the exercise of political power will be different." Working from this view, one would speak not of "persons" but of "subjects" as the point of intersection for property (or techniques implicating it) and "democracy" (or the identities suited to and formed by popular participation).

Bourdieu, alternatively, examines practices that develop specific dispositions and competences; because these may or may not fit with the intentions of those who dominate, we can inspect them for hidden sources of change. Criticizing political science for taking as its object only the practices that do not challenge control over the fundamental mechanisms of social reproduction (1977: 189), Bourdieu too indicates loci of "the political" in venues other than standard institutional or procedural ones.

Work influenced by approaches such as these would significantly alter the views of privatization and democratization that prevail in economics, political science, and policy circles, for it would study transition through something other than institutions and procedural rules. Standard approaches ask if there are free and fair elections, if people participate in them, if there is intra-party competition, if there are laws guaranteeing contracts, if there is "civil society," if new constitutions protect certain kinds of rights, if agencies have been set up and suitably empowered to manage the divestment of state property, and if there are provisions regulating access for small and medium-sized firms trying to compete in a still-monopolistic environment (see, e.g., di Palma 1990; Poznanski 1992; Mason et al. 1991; Keren and

Ofer 1992; O'Donnell, Schmitter, and Whitehead 1986; Przeworski 1991; Frydman and Rapaczynski 1994; Frydman, Rapaczynski and Earle 1993). But if we see political power as more than just the actions of voters, parliaments, and state policy-makers, we ask different questions. In resituating "the state" from the "top" of society to loci that are multiple and nonobvious, we would look for critical contact points between citizen and state in everyday practices, explore their subject-forming effects, and ask whether other kinds of political action besides formal party-based activity might shape political identities (see, e.g., Burchell 1991; Corrigan and Sayer 1985; Foucault 1978, 1979 and 1987; Fout 1992; Miller and Rose 1990; Miller and O'Leary 1987; Mouffe 1992; Ringrose and Lerner 1993). We might even extend such an inquiry to ask *whom* liberal democracy has traditionally "counted" as effective subjects and political citizens, and why "states" are treated as privileged sites for political participation and identity validation (McClure 1992: 109-110). In keeping with these emphases, the present project investigates privatization of land as a locus at which community-forming participatory practices might shape (or be prevented from shaping) political identities different in kind from those of the socialist period. (For descriptions of the latter, see Verdery 1991, 1993, 1994b.)

B. Anthropological Work on Property and State

The above-mentioned work on "persons" and property connects with substantial bodies of literature in anthropology, albeit from a different angle. Property rights have long been important to anthropologists (e.g., Bloch 1975, Feeley-Harnik 1991, Gluckman 1943 and 1965, Goody 1962, Hallowell 1955, Leach 1959, Malinowski 1936, Peletz 1988, Strathern 1988, Weiner 1992). From the wealth of problems treated in this literature I will briefly single out two that are particularly relevant to the present project: How property should be defined, and how various human groups understand it in relation to notions of self.

Along with some theorists of property rights (e.g., Comisso 1991, Demsetz 1967, Waldron 1988), anthropologists reject a definition of property as a *thing* or a relation between persons and things. They instead see it as a relationship *between or among persons*, sometimes with respect to things (Hallowell 1955; cf. Strathern 1988: 104), with ownership as only one possible such relation (usufruct being another). Anthropological studies of property have pointed to a wide variety of property arrangements, in addition to exclusive ownership rights by individual or collective owners. Such work as Malinowski's on Trobriand property rights and Gluckman's in Africa, for instance, have shown that such rights can be structured so that a thing is *not* allocated to one social person exclusively but is shared out or enjoyed through overlapping use, without unique jurisdictions (see Hann 1993a for a concise summary). Or, persons might have exclusive rights of *use*, but not of ownership or possession (Cronon 1983). This sort of work shows the complexity of property rights, far beyond the flat dichotomy between exclusive individual or state/collective ownership rights that appears in recent writing on privatization in the former Soviet bloc (e.g., Poznanski 1992). In several illuminating papers, Hann illustrates the utility of such an approach for Hungary (1992, 1993a and b).

Another staple of anthropological inquiry, inspired by Mauss's *The Gift*, is research into how persons are made through their relation to things (e.g., Appadurai 1986, Carrithers 1985, Davis 1992, Harris 1989, Strathern 1988, Weiner 1992). This work is easily tied to questions of property. Strathern observes that to define property as a relation between persons and things is to presuppose that things exist in themselves and are external to persons. So categorical a division is not, however, universal: in some societies persons are *equated* with things, or things are extensions of persons rather than being set off

from them, or persons treat other persons as thing-like (Strathern 1988: 104). Similarly, Weiner broadens “property” to speak of “possessions” and writes of the ways in which possessions constitute identities, create authority, and establish difference (Weiner 1992). Work of this kind draws attention to the ways in which “persons” are socially and culturally constituted, often in relation to or by means of things. This applies equally to western notions of property, in which, according to Strathern, “The fact of possession constructs the possessor as a unitary social entity” (Strathern 1988: 104). It does this, she claims, through a commodity metaphor that sees persons as the proprietors of their own persons — that is, “proprietorship instantiates an identity between owner and thing owned,” which is in the extreme case “the unitary self, the ‘possessive individual’” (p. 157). This phrasing connects directly to that of the political theorists discussed above.

A third (and much smaller) anthropological literature relevant to this project consists of a newly emerging “ethnography of the state” (e.g., Anagnost 1988, Borneman 1992, Buchowski 1995, Feldman 1991, Humphrey 1993, Verdery 1994c), some of it inspired by the approach to governmentality described above. For example, Borneman examines how the practices of East and West Germans, in response to family policy, positioned them differently as subjects in relation to their two states, with consequences for their “nationness.” Feldman looks at techniques of subjection through the manifold material practices exerted upon the bodies of Irish political prisoners. This work assumes that power is more than its concentrated expression in bureaucracies and policies, and it asks how practices of rule come to create subjects’ belief in “the state’s” ubiquity and centrality (cf. Abrams 1988).

The present project draws upon these literatures to study decollectivization in Transylvania. I will investigate the precise definitions of property rights and obligations, looking for the possibility of overlapping rights of both ownership and use, along with evidence for how identity and notions of person relate to property. I will ask whether Macpherson’s early-modern “possessive individuals” are evident in this new “transition to capitalism”¹ and seek to account for them, if so. Treating decollectivization as more than simply a question of altered property rights, I will see in it a locus for practices of “government” and participation that shape political subjects. I will give special attention to people’s participation in new community forms (such as the “Associations” created after collective farms were undone),² their contributions to village meetings and local initiatives (such as the laying of a gas main), their relationship to the local land commission that distributes rights to property, and their recourse to the courts, in which they seek proper assignment of what they see to be their rights. Treated as contact points between villagers and “state,” the last two of these venues permit assessing *what kinds* of participatory competences are emerging in Romania’s transition and what relationship they have to the persons and identities characteristic of socialism. That inquiry, in turn, feeds a reflective critique of “state,” “democracy,” and “private property” as foundational western concepts.

III. Relation to Long-term Project and Work Completed to Date

No single project both feasible and worth doing can “answer” such large questions. I plan to narrow my scope in two significant ways. First, I deal only with rights to private property in land, not with the complicated process of privatizing state-owned industries. Second, I focus my inquiry through fieldwork in a village in Transylvania. This modest location makes sense for several reasons. It is indeed in parliaments, through politics in national capitals (where villagers’ votes may perhaps influence the outcome), that property rights in land are codified. But it is in specific territorially based communities that they are contested and put into practice, as owners argue over specific clods of earth they claim as “theirs” and, in justifying their claims, reveal local conceptions of “possessive individuals” who may or

may not conform with liberal-democratic theories about democracy's proper subjects. Again, we may think of "states" as residing not in rural communes but in urban places, whence they work their will through the organs of rule and adjudication. But *ethnographies* of states as processes and techniques of rule can be done at any location in which rule is present, legitimacy perceived, subjection accomplished. The conflicts that state policies inevitably produce are *situated*. Those concerning agriculture break out in rural settlements, and their outcomes influence the environment in which further policy will be crafted and further conflicts will unfold. Looking at a village community will not tell everything we want to know about private property, democratization, and states, but it will tell us some things available in no other research site — such as how those who own and/or use land (as opposed to the laws that codify its use) conceive of their land and themselves, how they strive to secure their possession, how they seek to manipulate "the law," and how these actions both shape them as actors and also reflect and influence changes in "the state" itself.

The proposed research will continue a long-term project begun in September 1993-June 1994, funded by the International Research and Exchanges Board (IREX) and administered by the Romanian Academy. That work focused chiefly on problems in recuperating property rights; the proposed continuation would broaden this to concentrate more fully on the question of political identities. Funding is requested for two summers of fieldwork and library research, plus logistic support across three academic semesters, by which time I hope to have completed a book manuscript describing the process of property restitution and its implications for democratic practice up to that point.

A. Background to Property Restitution

In February 1991, the Romanian parliament passed a law (known as Law 18) to restore private ownership rights over landed property. In contrast to property restitution in Albania, Russia, and Armenia, but similar to the situation in Bulgaria, Slovakia, and the Czech Republic, Romania's Law 18 does not just distribute land to villagers who live on it and have worked it: it attempts, with certain exceptions,³ to recreate the property regime that existed before collectivization. For a number of reasons, this has proved more complicated than its backers (including western governments and lending institutions) had imagined. To begin with, 30% of Romania's agricultural land was in *state* farms, not in *collective* farms, and Law 18 disbands only the latter.⁴ Many prior landowners thus locked out of their state-farm properties have resisted, both by lawsuits and by forcible occupations. Second, as I have described elsewhere (Verdery 1994a), the property regime of socialism has made it exceedingly difficult to reconstruct the landscape that existed in 1959, when the final collectivization drive began. This has produced widespread litigation. Third, because Law 18 recreates the property situation *as of 1959*, it reconstitutes the farms of households that were viable units 30 years ago but whose members have now died, emigrated, married, and otherwise substantially changed their relationship to land. As a result, conflicts have erupted among nearly all categories of the population, as some people disagree over the division of 30-year-old inheritances and others complain at being excluded from ownership rights. These effects of Law 18 have proved atomizing and divisive.

While I cannot explain here the politics behind Law 18, I note that those privileged in its final form were mostly national- and local-level apparatchiks (the political base of the governing coalition), prevailing over anti-communist groups led by pre-1945 large proprietors. This means, *inter alia*, that the people best situated to obtain land after 1991 (newly elected mayors, plus the rural agrarian elite of the communist period — agronomists and presidents of collective farms, heads of state farms, heads of the Agricultural

Machinery Stations) have the edge in building a new social position, while the pre-communist elite is handicapped.

The passage of Law 18 in February 1991 launched the dissolution of collective farms all across the country and the restoration of individual private landownership. It established land commissions working at three administrative levels: the county, its constituent communes, and their constituent villages. Of these three, the most important were the commune commissions, charged with determining the amounts of land each village's households are to receive and with resolving disputes wherever possible, throwing problem cases up to the county land commission or the courts. The actual measuring and assignment of specific parcels was the job of commissions working in each village. Administratively, there is a sharp break between the county commissions and those of the commune and village: the former exercises almost no control over the latter two, which are run by the commune mayor. Thus, Law 18 (together with laws on local-government autonomy) laid the groundwork for substantial independence on the part of local authorities.

I have been observing property restitution from the vantage point of Aurel Vlaicu, a village in the commune of Geoagiu (Hunedoara county), in the region of Transylvania. I first conducted fieldwork in this community twenty years ago (see Verdery 1983) and have revisited it frequently in the intervening years, spending time there each summer since 1989. I decided to return to Vlaicu for an extended project on decollectivization owing to my long familiarity with it and to the store of data I had amassed on land-holding prior to collectivization.⁵ I describe in section IV.A. below my activities and research procedures during my September 1993-June 1994 fieldwork.

B. Preliminary Results

My analysis of the data from my recent fieldwork has so far been very selective and does not detail differences among different categories of villagers. I offer the following tentative findings to suggest how a community-based ethnographic project might relate to the themes of property, state, and democratization as outlined above.

1) *Conceptions of Property-ownership and Self.* Vlaiceni of both ethnic groups (Germans and Romanians) — especially those who have received “their” land back — are modified “possessive individuals”: they define themselves in relation to possessing, and they want *ownership*, not use rights. Many want ownership so as to rent out the land, being unable to work it themselves. The “individual” in terms of which they conceptualize ownership, however, is a *family* corporation (rather than a single individual), extending back in time to incorporate ancestors from whom they inherited the land. I draw this conclusion from a number of interviews and particularly from the strategies of justification I heard them using in public quarrels over their rights.⁶ For nearly all Vlaiceni, the criteria that matter in validating landownership are entitlement and desert (rather than some criterion such as efficiency). By far the most common grounds for entitlement are kinship (or blood) and work: people believe they deserve to own land because it belonged to their ancestors, because they or their parents worked it, or because their parents worked in the collective even if they had no land. My material suggests, then, notions of self that link together kinship, possession, and labor — selves that are actualized by work on possessions transmitted by blood (cf. Lampland 1995). These notions imply a *bodily* link to ancestors through land, thus spatializing and materializing social memory and personal identity.

Three aspects of this are relevant to the themes of this project. First, justification through labor posits social persons defined *by their effort*, persons who gain identity as possessors because they *act*. This

shapes identities different from the ones available under socialism, as well as social persons different from those marked by the dependency and “inculcated apathy” so common in writings about the socialist period. At the same time, however, this “person” is not singular: as collectivization delegitimated family-based owning and laboring units, decollectivization now relegitimizes them, with kinship becoming a significant basis for claims. Thus, property restitution entails reinforcing a kinship ideology. Both of these points bear on the subject relations linking villagers to the Romanian state and to democratic processes: they indicate self-acting subjects who embed themselves in wider social networks, as against the atomizing tendencies fostered by some aspects of restitution.

Second, the emphasis on kinship and ancestry is necessarily backward-looking. Against socialism’s relentless orientation to the future, many villagers now define themselves by where they have come from: they are possessors because their ancestors were. To the extent that Romanian socialism had honored the past, it was a past dominated not by kinship but by the “nation” and its march toward communism. Those who now insist on the importance of ancestry are therefore broadening the legitimate forms of historical consciousness to include pasts and solidarities that are other than national. The significance of this point should not be underestimated in a country where state nationalism has gone together with the suppression of “civil society” and of related grounds for political identities.

Third, to note that these “possessive individuals” are familistic is to point to what may be an ideological blind spot in Macpherson’s account. Given English property law, his early “possessors” were not truly “individual”: for all except certain criminal proceedings, the law presupposed *households* as the basic units and recognized ownership only for men. This suggests that the very concept of possessive individualism is the ownership equivalent of what Pateman (1988) sees in classic social-contract theory: the rationale for an originary citizen who is male. If so, then the category of free, democracy-prone self-owning possessors potentially excludes women. This is more than just a question of whether women are becoming property-owners in Transylvania (though my data indeed show that widows often have difficulty getting back the land their families once owned): the example shows how investigating Transylvanian property conceptions may cast unexpected light on the basic ingredients of “liberal democracy.” In addition, not only are women problematic “possessors”: decollectivization has rendered them unemployed, depriving them of the wage-owning status that, for many women, had altered the balance of household authority somewhat in their favor. The present project therefore sharpens its critique of western forms by asking specifically about how property and “democratization” intersect in gendered ways.

2) *Law, Rights, and Forms of Political Participation.* Vlaiceni have not passively accepted the property rights assigned them by the land commission. Besides simply occupying lands by force, some have brought suit — in some cases, collectively — and many have gone before the commission to protest. These actions are quintessentially political, and they have significant effects on people’s identities.

a) Democratization and the creation of a “rights-bearing subject.” Underpinning the local struggles I witnessed is a persistent discourse of rights. As people fight their battles, defending their claims against one another and against local officials, they often invoke “rights” as an argument. Over and over I heard people urge each other, “Defend your rights!” “Why are you giving up? Don’t give up, don’t let them walk all over you!” Lest we too hastily find here liberalism triumphant, however, we might note that this ideology of rights has its origins in socialism, which encouraged subjects to see themselves as *entitled to things*⁷ — an entitlement now serving a demand for rights. Socialism too guaranteed rights, though not to property. One might say that socialism had already created villagers as rights-bearing

subjects of a certain type, but by complaining repeatedly to the land commission, going to court, and plowing over their neighbor's furrow, they may now be *actively producing themselves* as such. Whether they are doing so in some relation to legal procedures and guarantees, however, is less certain. For some, the right they seek derives from might, for others from ancestry or labor, for still others from past deprivation. These may not have been exactly what the architects of liberalism had in mind. My data reveal a remarkably capacious notion of rights that differs substantially from the liberal notion of them as discretionary opportunities for action conferred by law, rather than as some "natural" thing one "has." Many of my informants seem to see law as the *problem* rather than the solution — suggesting some continuities with the citizen/subjects of socialism.

b) Legitimizing the "law-governed state." A critical part of this project is to examine villagers' connection with formal law. The approximately 400,000⁸ court cases now pending in Romania over land — a number that will surely escalate once all property titles are awarded, as they have not yet been — indicate significant participation in a process of seeking one's rights. What is this experience like? First, it involves often costly and time-consuming trips to court, since cases are not prepared in advance by legal counsel and then brought to trial but are created *in situ*, through repeated court appearances to hear yet another witness, yet another piece of testimony, yet another expert evaluation. This aspect of legal practice discourages many would-be participants at the outset.

Second, because cases do not come up in the order posted, parties coming to court on the appointed days may sit for hours awaiting their moment. During this time, people *spectate* the law: they learn judicial norms by hearing the judge speak over and over about the need for proofs and documentation, argue over what judicial level has or does not have competence, admonish people for their posture or their attitude, dismiss or postpone cases because the parties do not have full property title or because they have not received preliminary title from the local commissions, throw cases back to the local authorities or to the county commission, advise parties to go get a lawyer because they are not competent to defend themselves, and complain frequently about the failure of local officials to comply with court orders to produce documents. Among the things court spectators learn are that the court does not have power to resolve many of the cases brought before it, particularly against local officials' resistance; that much of the court's work is carried on in arcane, specialist language to which ordinary people do not have access; that they can be tripped up by numerous procedures and rules; and that the practices of participation in defense of one's rights eat up large portions of one's resources.

My discussions with Vlaiceni and others involved in court cases revealed considerable skepticism about "the law." As one judge I knew put it, there are two Romanian views of law: those who win a case in court say justice was done and the law is impartial, while those who lose say justice is corrupt and the judge was bribed. My encounters amply confirmed this opinion. Most Vlaiceni do not believe that the law is neutral and impartial, and this shapes their relation to both law and state.⁹ Those who lost cases that I followed were convinced from the start that their opponents had bribed the relevant officials, or that because the evident interest of "those in power" was to have them lose the case, the judges would be so instructed. At the same time, even people who have *won* a case often have difficulty having the judgment enforced, owing to the resistance of local authorities. These attitudes and experiences suggest that state legitimation through the "rule of law" is problematic, and that people view their defense of their rights as something taking place as often *against* the political system as *facilitated* by it through reliable procedures.

From my attendance at court I saw in the experience of bringing suit subtle forms of domination rather than of citizen empowerment. An example is the way people's words enter into the court record. Instead of being taken down verbatim by a stenographer, the proceedings enter the record only when the judge periodically dictates a summary to the secretary. This practice leaves no doubt that ordinary citizens' words have legal effect only if translated (and thus authorized) by "the state." In other words, what one sees in these encounters is perhaps not political "subjectivity" but *subjection*, not citizenship but subordination (see Foucault 1983: 213). I read postural and behavioral signs as suggesting that many parties to a suit do not come there confident of their rights but, rather, as supplicants. This was also evident in the behavior of those coming to legalize inheritances at the state notary. These orientations to law doubtless continue those of the socialist period, when the governors perceived the governed as "children to be corrected and educated" (see p. 2 above). Yet emerging alongside this, the governed have become legal subjects with certain rights — an identity clearly accepted and acted upon by all those who bring suit. Decollectivization thus focuses very different possible subjectivities and political identities.

From my research so far, I would say that legitimation through a "law-governed state" is not faring well in rural Transylvania, nor are people's activities in defense of their rights treading an easy path to politically effective "citizenship." This has strong implications for the state's subsequent capacities and the strategies it can pursue. It remains to be seen, however, whether people will be discouraged and give up defending themselves or will persist, forming durable participatory relations that are mediated through legal institutions and that might strengthen the latter's independence.

3) *Local-level Perspectives on Political Recentralization and the Prospects for "Citizenship."* The events of 1989 dealt a severe blow to the centralized Romanian party-state; extensive privatization will only enhance that effect, thus facilitating pluralist democratic participation as usually conceived. Will those now in power succeed in reversing this trend? Will they obstruct the restoration of ownership rights that many political theorists see as fundamental to freedom and democratic participation? Among the places in which we can look for evidence on this question are local government and the process of privatizing state firms.

Although the actions of commune officials may seem insignificant for the reconfiguration of state power, local-level management of property restitution in fact has very high stakes. Law 18 gave commune authorities and their topographers sufficient independence to foster local autonomy. If they manage to contain and resolve localized conflicts over land, creating some form of order without intervention from the center, this will impede recentralization of the state and will further local self-government. But if, instead, they become embroiled in infighting and corruption, squandering their independence and enabling or inviting the center to step back in, reconstituted central power will be the result. The implications of local struggles over land thus ramify far beyond the villages, affecting the state's capacity to dominate villagers in the future.

My evidence shows that local commissions rarely resolve cases but instead toss them up to the county commission and the courts — both currently controlled by a governing coalition with state-expanding aims. County-level organs do not even have adequate means for final resolution — first of all because no suit can be brought until one has a property title, and the commissions have been exceedingly dilatory in producing these. The delay caused President Iliescu to propose that *the state* resolve the problem (so it could tax the land) by decreeing that preliminary titling papers automatically become permanent. In other words, delays and disorder in local and county management of property restitution were effectively

“bringing the state back in” (Evans, Rueschemeyer, and Skocpol 1985). At the same time, however, the political center was itself contributing to these delays, thus obstructing villagers’ “possessive individualism.” It failed to train enough topographers to carry out the measuring and neither solicited nor accepted trained topographers from elsewhere.¹⁰ Moreover, the government has postponed by nearly two years a USAID project for satellite mapping: the relevant Ministry refused to supply the five to seven key coordinates essential to starting the work. Clearly, those at the center have little interest in empowering “neutral” technical knowledge and local authority, and the result is persistent if not increased central power.

Additional insight into the matter of state power and property rights comes from noticing that individual households struggling for possession do so in a rural interactive field overwhelmingly dominated by collective actors,¹¹ whose advantages over “individuals” on the playing field are backed by some relation to the state. My data suggest a tendency for social actors to “collectivize” in order to participate on this playing field. Rather than sue in court, individual farmers having problems over land might put their land in the Association and let *it* fight for resolution of the borders; moreover, as a collective actor, the Association has more clout both with the mayor and in court than do single owners. Thus, an organization based in *use* rights gains interactive purchase at the expense of individuals with *ownership* rights.

The possibility that the state’s continued presence in village agriculture may work against the interests of owning households and even of individual *ownership* is strengthened by my discussions with directors of these state-backed organizations, many of whom *as individuals* are interested in privatizing. In their experience, the bureaucratically superior bodies that supervise them squelch any attempt at individual initiative: in other words, they see the higher levels of “the state” continuing to retard lower-level enterprise, as well as privatization and private ownership by these directors and their shareholders. These local views confirm the reconstituted power of what Cornea (1993) calls the “directocracy” — a loose grouping of bureaucrats and public officials who profit by maintaining subsidized state property and, alongside it, founding their own private firms. They feed these firms by siphoning off the resources and subsidies of the state firms. Facilitating this arrangement, according to Cornea, is ongoing confusion in the system of property rights, with the boundaries that separate private, collective, and state property rights weakly defined and poorly enforced. Thus, bureaucratic parasitism on state property presses in the direction of unclear title, uncertainty as to who may exercise property rights, and incomplete ownership for villagers as well as others.

Finally, the impression of reconstituted state power — and a power of a specific kind — is enhanced if we look at what is happening to bureaucratic practices. Decollectivization provided an opportunity to reinstitute the sort of rule-by-records that characterized the Habsburg period in Transylvania; the post-1989 state might have proposed a machinery for recreating records, making them a predictable basis for resolving conflicts, and then guaranteeing ownership based on them. So far, however, this does not seem to be the outcome. Instead, the procedures for implementing Law 18 have muddied such records and practices as already existed. An entirely new system of topographic numbers was institut-ed, for example, in the absence of legislation to link them to the older set. Thus, even a villager with a property title cannot use it effectively in court, for the property numbers on it bear no resemblance to anything else on record.

Although I cannot yet describe the politics whereby these results were achieved, they suggest the following about state power: instead of a power institutionalized and exercised through predictable procedures (which many see as the hallmark of liberal-democratic states [Bunce and Csanádi 1993: 266-7]), what

we see are the ruling practices of the predatory “spoiler state” (Gross 1988), consolidated by preventing other actors from acting effectively. “Government” in this context rests on maintaining an environment of uncertainty, one in which “owners” can readily doubt legal guarantees to their possession (after all, these people saw their supposedly law-guaranteed property confiscated after World War II). “Law” in this context becomes not only a space for actively pursuing one’s rights but an occasion to experience inefficacy, as cases drag on for months only to be thrown elsewhere, unresolved. “Local self-government” in this context means struggling to assert yourself against powerful local authorities who put you off and rarely resolve your problems.

The experience of property restitution is thus a disheartening one for many villagers, as they seek to participate in shaping their futures but find themselves thwarted much of the time. This is a more telling experience than any participation in “free” elections. It subjects people to a state that produces not democratic empowerment but dependencies that may thwart “possessive individuals” from effective action. Nonetheless, working against this are the “possessing” identities that drive them to court despite their doubts about its neutrality. Moreover, as several villagers protesting to local authorities said to me, “We want them to know they can’t treat us like this.” This reflects very different personal and political identities from those of the socialist period, identities whose undermining or reinforcement will be crucial to the future of whatever counts as democracy in Romania.

IV. Research Methods

A. Past and Anticipated Research Procedures

My research during 1993-94 consisted of the following elements, most of which I would continue over the next two summers under the proposed NSF grant. The principal method was participant observation, supplemented by structured and unstructured interviews and use of archives.

1) I interviewed Vlaiceni about what their families had owned, what they have received, how they are working it, how they think about land both under the collective (“whose” property was it) and after, and what opinions they have concerning a number of village conflicts involving land — who they think is “in the right.” I held informal conversations with over 80 families and conducted more extended interviews with a subset of these, chosen to reflect the overall composition of the village with regard to ethnicity, former wealth, place of birth, age, and occupation. Prior experience of surveillance and my persistent reputation as a “spy” have led me to adopt the expedient of not selecting interviewees randomly but preferring those who invite me in and/or those I know from the past to be good and willing informants. Similarly, I do not tape interviews but take notes during or immediately after the conversation. Using these methods, I believe I am able to get useful information.

Over the next two summers, I will continue to interview villagers about their use of land and conceptions of it, about events that have happened in my absence, and about what those mean. Among the questions I will pursue are: Why are so many people fighting so much over land, if they haven’t the tools to work it with? Have there been cases of theft, as there used to be under the collective? What *is* “theft”? How can people be sure of their ownership? Who should guarantee it? Would you sell your land? To whom would you sell it? Would you give preference to relatives, or not? Can you do whatever you want with your land? Can you decide *not* to plant on it? Do you feel the same way about land you or your parents bought as about land you inherited from your ancestors? Are people without land as responsible as people with land? Who does the most for the community? These and other questions help to reveal to what extent people see land as a commodity or as an extension of themselves and their families, something

over which they exercise full or only partial control, as well as touching on moral issues about entitlement to land that will show how property-owning is legitimated.

In addition, I will speak with all villagers who have pursued claims in court, to learn what effects this had on them. I will ask whether they thought the decision was just, what they understood about its grounds, whether they learned anything from going to court, and what impression they took away from the court proceedings. I will also discuss local activities such as participation in village meetings, collective initiatives, and the village Association, so as to understand whether they see these forms of participation as enabled by a "new" climate for political action, in comparison with what they knew before 1989.

2) I spent some time in the commune center and (briefly) in some neighboring communes, speaking with local authorities and others about how property restitution was proceeding in those settlements and why it differed from what I was learning about Vlaicu. I also interviewed directors of Associations, Agromecs, Romcereal, and state farms, asking what problems their firms are facing, what interest they have in privatizing, how that might happen, what role the state ought to have in their functioning, and how they treat the land (potentially "owned" by villagers) under their charge.

In returning to Vlaicu I will again interview these officials and directors to learn what has happened to state property, as well as speaking with officials of Vlaicu's Association about villagers' participation in it, its internal disputes, and changes in people's allotments. In these conversations I will be particularly attentive to their present perceptions of relations with "the state" — how they talk about it and who they think it consists of. Additional conversations with commune officials will help me understand whether they have expanded or shrunk their room for maneuver and where they feel the presence of the state most acutely. I will also probe for what the idea of "property" means to them, in comparison with what villagers have to say about it.

3) I copied detailed records in the commune archive about the process of land restitution, including the initial redistribution that was proposed. In Vlaicu I copied the registers that show who is actually working what parcel. For comparison with this latter list, I copied from the county branch of the state archives a parcel-by-parcel listing of fields for the village, from the 1948 census. I plan to computerize these lists and collate them to detect discrepancies in past and present holdings, which I will follow up in interviews so as to learn more about the inequities decollectivization is producing and to discover what kinds of people are trying to do something about this.

4) Two or three times a month I went to the county capital and sat in the office of the state notary, watching how property inheritance was being handled. From discussing these cases with the notary, I learned a great deal about the complications arising from the socialist property regime. This work (as well as that in item 5) took me far beyond the bounds of Vlaicu, giving me a sense of the wider arena of property conflicts and sensitizing me to problems (such as unrecorded testamentary divisions or land exchanges) that I then pursued in my village interviews. I plan to return to the notary's office to ask about any changes in inheritance cases and their disposition, as well as to find out how the office of the state notary is being reorganized (a process that was just beginning as I left in 1994).

5) I sat weekly or biweekly in the courtroom of a judge in the county court, listening to cases involving property disputes. In addition, I got to know several other judges and lawyers with whom I discussed the cases I heard during my time in court, and I spent many hours as well discussing these with the judge in whose courtroom I sat. These contacts proved especially useful in following two lawsuits brought by

people from Vlaicu; for one of them, I was able to read the entire court file, as well as to discuss with the judge the rationale for her decision. From my connections with the county judicial apparatus I drew the conclusions offered above about the role of courts in producing subjection, as well as about the values, norms, and procedures that appear in this specific judicial site. I plan to return to court to interview judges about changed directives from the Ministry of Justice concerning land disputes and to learn of any new trends that have emerged in their cases.

6) During the spring of 1994 I accompanied the village land commission on its rounds, as commissioners measured everyone's household gardens, and I witnessed disputes over boundaries. I also sat in the commission office and overheard numerous complaints that villagers brought to it for resolution. From these activities (which I will not be able to continue, since the commission does not work during the summer) and the strategies of justification I heard villagers marshal in defense of their claims to the commission, I learned a great deal about how they conceive of land and their relation to it. These sessions provide much of my material for hypothesizing a "possessive individual." They were especially valuable in that I did not elicit what I heard, and my presence probably influenced its content rather little, since people had a strong stake not in impressing *me* but in persuading commission members through arguments convincing to *them*.

7) I carried out a small number of interviews with officials and members of parliament in Bucharest. I plan during the next phase of my project to do more of these kinds of interviews, speaking with heads of the parliamentary commissions for agriculture, parliamentarians who took strong positions in the debates over Law 18, and officials in the ministries of agriculture and finance. I aim to find out more about the politics surrounding land issues — why the law on cadastres has been so long delayed, what has happened with the law on land rentals that was being passed when I left, what determines the policies for granting credit to cultivators, why it is that individual farmers are discriminated against and collective actors favored (as seems to be the case) in granting credits and who is responsible for setting the conditions for credit, etc. My friendships with several members of parliament and one government minister will provide me with access to officials involved in setting agricultural policy.

I will also spend time in libraries in Bucharest and Cluj, reading newspaper reports on issues concerning land, the parliamentary debates that occurred around Law 18, and other information on property law. My ties to two magistrates in the Cluj Court of Appeals will assist me in finding and interpreting material about property law. These investigations will aid my understanding of *who* "the state" is for specific policies relating to agriculture and why "it" has acted as "it" has with respect to landed property.

As I have done with my previously collected data, I will type the results of these interviews and observations into a computer locked with a password, and the real names of those with whom I speak will not be retrievable. I will later index the notes and process them with key-word searches; I do not now anticipate any more complex computer processing.

B. Schedule of Research

I request support for two months of research during each of the summers of 1995 and 1996. I will spend six weeks of each summer in Romania and the remaining two weeks reading at the Library of Congress.¹² I plan to leave in late May and go directly to Vlaicu, in order to benefit from the one relatively dead period in the summer growing season (around June 1-July 1). This timing will enable me to interview villagers, local officials, and court personnel (who start vacation on July 1). I will spend July 1-July 15 in the cities of Cluj and Bucharest (whose library holdings are complementary), interviewing government

officials in Bucharest, and reading newspaper reports, parliamentary debates, and law compilations. After returning to the US, I will read in the Library of Congress until the end of July. In August I will work on analyzing and writing up my material, and I will continue that work from Sept. 1995-May 1996, alongside my teaching duties. I will repeat this schedule in June-July of 1996, with a second trip to Romania and write-up from August through December, at the end of which I expect to have a completed book manuscript.

V. Dissemination of the Results

The research to date has generated one published paper (Verdery 1994a). I will write several more papers for specialist journals and will present work at colloquia, professional meetings (AAASS, AAA), and, if possible, seminars at the World Bank and other policy institutions. My larger goal is to write two books, one treating the theoretical issues I have outlined here and one on decollectivization, written in plain language for a nonspecialist audience of students and policy-makers. Both will be offered to Romanian publishers for translation. I note that all my prior grants have resulted in published papers or books.

VI. Significance of the Research

In the present global transformation, all manner of fundamental forms and concepts have come up for grabs. Such things as electronic media and genetic engineering put pressure on standard notions of "property," social and political "identities" (indeed, the concept of "identity" itself) are being altered, global capital flows are changing the nature of "states" and of the "nations" long associated with them, and what counts as "democracy" is also in flux. Taking cognizance of these wider changes, this project explores their particulars with respect to "property" and "democracy" in Transylvania. It contributes to understanding both the transformations in these phenomena in Eastern Europe and their broader theoretical definitions and interconnections. It asks, How can we see property rights, democratization, and forms of rule as mutually constitutive, intersecting in "persons" and political subjects? How does law-making — not as policy but as practice — shape political identities and future "citizens"? Where should we look for "the political" so as to talk about democratization?

In attempting to answer these questions, I reject narrowly formal definitions of participation and also narrow understandings of property. I see the rearrangement of property rights as potentially tied to new identities that generate political participation in defense of these rights; such participation shapes dispositions and competences that may prove durable elements of a kind of democracy not reducible to votes and petitions. These property-based identities have themselves become stakes, however, in larger political processes, as other groups in Romanian society retard the allocation of ownership rights to individuals living in villages, thus thwarting the development of competences based in defending those rights. By taking this conceptual approach, the project will contribute new ways of thinking about "democratization" and "property," bringing anthropological insights into questions handled largely (and not always well) by political science.

Alongside these objectives, the study will contribute to understanding the process of decollectivization, on which very little has been written to date. I will provide an account of rural property notions and restitution that — unlike the bulk of studies of privatization — is not urban-based and does not start from the assumption that it knows what "property" means or that exclusive ownership rights are the only form to be pursued. I will examine the definitions of rights and obligations, looking for the possibility

of overlapping rights of both ownership and use, along with evidence for how notions of person relate to property, and I will also bring into critical focus the very notion of private property.

The study will also contribute to the newly emerging literature on “ethnography of the state,” which I expect will be influential in shaping the interdisciplinary work on states and their contemporary transformation. What can one learn from investigating rural property — an issue in which the state has significant interests — about the kind of state power that is forming in Romania? What might that suggest about the very concept of “the state”? Do we find a state formed partly in the context of localized struggles, in which one or another group invites “state” intervention against other local groups — that is, do we find the state as a ragged and miscellaneous collection of resources whose invocation in local struggles produces and reifies it? Who and what *is* “the state,” in the Romanian case?

By offering both a description of unfolding processes and a critique of the concepts they implicate, the project aims to fulfill a basic objective of “science” as *knowing*: to set up a relation between investigator and constituted object, so as to cast light on and transform both.

Notes

1. I should state clearly that I do not share the assumption of many scholars and policy-makers that “capitalism” is what is happening in the former Soviet bloc.
2. Their *raison d’être* was that most villagers do not have the means to work their newly acquired land and must therefore pool it in larger chunks, administered by officials who organize its cultivation.
3. To date, there is little published literature on decollectivization. Pryor (1992) is chiefly a history, not about post-revolutionary achievements. Papers by scholars such as Kideckel (1993), Hann (1993a, b), and Creed (1993) helpfully discuss the earliest moments of decollectivization in Romania and Hungary but in relatively brief compass; somewhat more detailed is Agócs and Agócs (1994).
4. State farms (IASs) were run as state enterprises with salaried labor and an appointed director; neither employees nor the director had any necessary relation to the land the farm worked. Collective farms (CAPs), by contrast, were formed from “voluntary” donations of land by the villagers who thereby became their members and their labor force. As of 1980, 61% of Romania’s agricultural land was in collective farms (including private plots), 30% in state institutions, and 9% in individual private farms. If we look at arable land rather than all agricultural land, the figures are 74%, 21%, and 5% (Turnock 1986: 184).

One reason for not dismantling state farms was to assure a supply of food during the expected drop in production on the former collective-farm lands. A law passed in 1994 sets the conditions for eventual return of state-farm land to its former owners, also.

5. Vlaicu’s Transylvanian location is significant, for the region’s property history and structure are very different from that of Romania’s other parts, owing to Transylvania’s prior inclusion in the Habsburg Empire. During the 1860s, the Austrians introduced property registration into Transylvania. Because the parts of present-day Romania that were not under Austrian occupation instituted land records much later and in more provisional form, anyone there who now wishes to prove ownership has fewer, and more unreliable, sources than do Transylvanians. The latter therefore have greater hopes both of reestablishing ownership and of resisting usurpation by local authorities. For this reason what I observed

in Vlaicu is not always true of land restitution across Romania as a whole (and therefore I specify "Transylvania" in my project title).

6. See point 6 under Research Methods.

7. For a further discussion of this sense of entitlement, see Verdery 1994b.

8. I have been unable to confirm exactly how many such cases are pending — according to my inquiries, the Ministry of Justice seems to have no record of them. The figure of 400,000 was used by the head of the main opposition party in a speech in May 1994.

9. In the most extended case I followed, the plaintiff boasted to other villagers that he was sure he would win because I was "friends" with the judge (and he was "friends" with me). When he lost, he considered an appeal because he has a relative at the court of appeals and could probably win there.

10. A USAID project was struggling to work around the obstacles to measuring, but according to the office director in Bucharest, not making much headway.

11. In 1994 these consisted of: 1) "Agromecs," the old machinery parks of the socialist period, which still provide the machinery for plowing and harvesting; 2) commune authorities (mayor, vice-mayor, Council) and the land commissions they oversee; 3) state farms; 4) the post-collective "Associations"; 5) Romcereal, a state organization that offers credits and bulk purchasing and warehousing functions; 6) banks, most of them still state-owned.

12. My previous experience working in Romanian libraries in the summer is that they are not conducive to accomplishing anything. I plan to collect bibliography and to follow up with the reading in a setting that enables work. The Library of Congress has extensive collections of Romanian newspapers and government documents.

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