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CONTESTING PASTS: PROPERTY NEGOTIATION AND LAND REFORM IN A ROMANIAN VILLAGE¹

One of the main tasks of the new postsocialist governments has been the restitution of land, forest areas, and assets to their pre-1948 owners or their legitimate heirs. Restitution is based on documents which prove the ownership of the claimant. This policy has triggered a 'war of memory' among villagers. In order to settle property claims, the past is called into the present as one of the main actors in this rather political procedure. This paper aims to point out that one of the main features of property in postsocialist societies is represented by negotiations among different actors which use local history as one of the most powerful instruments to prove their ownership. Moreover, the past itself is renegotiated among different actors. Ethnographical findings suggest that different owners have divergent understandings of the past. Family genealogy and the history of particular villages and regions become valuable tools in settling current conflicts concerning property rights. This paper suggests that property should not only be treated as a collection of rights and powers, or as a mere negotiation among different actors, but also an instrumentalization of the past for present claims.

The end of the year 1989 brought tremendous changes to the Romanian political system. The collapse of the Communist regime meant structural changes for the entire society. One of the first tasks of the new government was to manage changes in property rights. Beginning in the early 1990s, a debate concerning the restitution of land to its pre-1948 owners began to emerge (Cartwright 2001; Verdery 1995). Before collectivization, which was implemented in Romania in 1948, agriculture was organized around small private farms. These farms were the outcome of the land reforms of 1921² and 1945.

As scholars have pointed out, there were basically two policies through which the postsocialist state has passed natural resources, mainly land and forest areas, from the state's hands into private hands; one policy was concerned with 'historical justice' while the other was more concerned with the social equity of this process (Rabinowicz and Swinnen 1997). The Romanian government ensured the restitution of land and forest areas to their former owners and the distribution³ of land for those who had no rights to restitution. Restitution is a form of privatization which returns property rights to those recognized as its "legitimate" owners⁴ (Rabinowicz and Swinnen 1997). Law 18/1991 stipulated that every family should receive a maximum of ten hectares of land, regardless of how much of land they had before 1948. People who had no land before 1948 could also apply for at least 0.5 hectares of the village land reserve. Laws 167/1997 and 1/2000 stipulated that the maximum a family could receive was 50 hectares. In 1991, animals and the machines of former cooperatives were sold by the Land Commission to whoever wanted to buy, and farmers were given a certain amount of money as a compensation for their work in the cooperative farm.

Such legislation reflects the outcome of debates among parties with diverse interests and ideologies, but at the same time, also neglects certain social realities (Abrahams 1996). These laws reflect the ideologies of the parties who passed them through Parliament. Law 18 was passed by the former communist party under the banner of social democracy. They wanted to restrict the size of the plot to be restituted to ten hectares of land and one hectare of forest.⁵ The resulting law tried to enforce a sense of historical justice as the result of political pressure from the National Liberal Party and the Peasant National Party (Verdery 1996). One can say that the Romanian land reform laws are positioned at the interface of two major political strategies which governments in Central and Southeast European countries employed in the postsocialist era: historical justice, meaning land restitution to former owners, and social equity, meaning distribution on a per capita basis (Swinnen 1997).

Restitution is based on documents which prove the claimant's ownership. Claimants had to present a written request and provide documents to proving the historical rights to ownership within forty-five days after the law was passed. It is also a requirement that claimants must prove land ownership through any kind of document from the collective farm archives, the Agricultural registers⁶, the original applications for the collective farm, or any other evidence, including witness testimonies.

As one can easily imagine, the land reform laws have triggered a “war of memory” (Verdery 1999) among those claiming historical ownership of land. Each person or family who owned land, forest areas, or other assets which were confiscated by the communist state in the late 1940s have found themselves in competition with other potential owners for access to the past. Each potential owner has tried to impose their own narratives, memories, and stories about what happened at the end of the 1940s when the communist government nationalized forests and other assets and collectivized the all land used for agriculture.

This paper aims to point out that one of the main features of property in postsocialist societies is represented by the negotiations among different actors who use local history as an instrument to prove their ownership. Moreover, the past itself is renegotiated among different actors. Ethnographical findings suggest that different owners have different understandings of the past. Family genealogy and the history of villages and particular regions become valuable tools in present conflicts concerning property rights. This paper suggests that property should not only be defined as a “bundle of rights” (MacPherson 1978), a “bundle of powers” (Verdery 1999), or as a negotiation among different actors (Sikor, Stahl, Dorondel 2009), but should also be seen as an instrumentalization of the past for present claims. I use the word “past” to define the memories of people regarding local history. My understanding is similar to that of Kaneff’s (2004: 5) in that history can be used “as a ‘tool’ to position themselves [people, the village] with respect to the state centre.” In this case, I also describe how local memories are used as a tool to gain the upper hand in negotiations concerning property rights within the state structure. The paper proceeds as follows. The next section discusses the theoretical framework. The following section describes the setting of my case study and explores my ethnographical findings. Then, I briefly analyze my findings by demonstrating the links between two ethnographical accounts. In the last section of this paper, I conclude my arguments.

Using the Past for the Future: Postsocialist Competition for Property Rights

In their analyses of the dynamics of property rights in postsocialist countries, different authors have pointed out that property is more than a “bundle of rights,” as defined by MacPherson (1992 [1978]) or a “bundle of

rights and obligations” as defined by Bromley (1991). MacPherson argues that what distinguishes property from a simple momentary possession is that property is a claim that will be enforced by law (customary or formal), by society, or by the state. Verdery (1998) has pointed out that property is not only a matter of rights and obligations, but also a matter of powers exercised by the owner. In the postsocialist context, she argues, the owner has had insufficient power to exercise their rights. This is why she argues that we should understand property as a “bundle of powers” (Verdery 1999). In rural Transylvania, postsocialist property is seen as the negotiated outcome of “power arrangements” (Verdery 2004).

Some postsocialist policies concerning the restitution of land, forest areas, and other assets to their historical owners and through the concept of “historical justice” have emphasized the importance of local history. Romania is one such state. Such historically-based restitution policies have triggered a “war of memory and knowledge” (Verdery 1999). The restitution of the *same* land owned before collectivization inspired a competition between divergent narratives of the past. This “war of memory” has taken many forms. Verdery has pointed out that during collectivization (1948-1962), villagers hid land from authorities by officially declaring less land than they actually owned. This was possible because there were no cadastral maps. In 1991, many families claimed more land than inscribed in the official documents in the collective farms’ archives. This is what Verdery (1994) called “the elasticity of land.” Another reason for “the elasticity of land” was the shifting village perimeters (*ibidem*). The local land commission⁷ had to appoint members of the commission of village elders to sort out land restitution disputes. The village elders were asked to remember what plot belonged to whom in the period before collectivization. As a consequence, those families or groups of people able to impose their narratives of the past have succeeded in acquiring more land or land-related assets than other families in the same village (Dorondel 2005). In other parts of rural Romania, this process caused the elite class to re-emerge. Old social networks were also reinstated for the purpose of land restitution (Hirschhausen 1997).

The past still haunts the present in other postsocialist countries, too. As de Waal (2004) has pointed out, we cannot understand present agrarian relations in Albania without understanding the importance of *Kanun*, a customary law dating back to the fifteenth century. In Bulgaria, the land restitution forced villagers to re-examine their ties to their ancestors in a detailed way in order to determine the location and the amount of land

to which they were entitled (Kanef 1998). Chris Hann (1996; 2007) has demonstrated that one cannot understand actual property relations in rural Hungary without analyzing the history of the particular village as well as the history of property rights before and during communism.

The “war of memory” was prompted by the law’s particular. The specific nature of land reform laws were produced by the outcome of a debate between different political parties who insisted on imposing their own individual ideologies (Abrahamas 1996), in the process reviving interest in the local past. Restitution laws pushed villagers to search through local and regional archives for dead relatives who owned land in order to prove their kinship. Actually, the state has treated the past as reversible (Giordano, Kostova 2002). Land restitution was meant to bring the country back to its pre-1948 state, before collectivization began. As Verdery (2003) has shown, land reform *did* reconstitute an old social landscape, albeit very different from the pre-1948 one.

The literature surveyed above highlights the importance of what Barbara Cellarius (2004) has called “historical memory” for the present competition for property rights. Historical memory implies “memories that view or recall the past through a lens of individual or community experience, memories that are socially constructed” (ibidem: 66). As I will demonstrate in the following sections, memories of the past play a major role in present negotiations or disputes surrounding property rights in postsocialist societies.

Land Restitution and the Struggle for the Past

This section presents ethnographical facts in a mountain village in Wallachia (Southern Romania). It describes the struggle for the past through some current events I observed during my four months of fieldwork there.

From the National Road linking Rucar to Brasov and Wallachia to Transylvania, one comes across narrow road is heading westward. This road continues for five kilometers through beautiful huge stone gates, and on its right, it is followed, a small river, the Dragova.⁸ The road ends in Dragova, a mountain commune of with three villages: Dragova (this is the administrative center of the village where the mayor’s office is located), Podu Damboviței, and Ciocănaș. A total of 1,100 people live in the commune. From an ethnic perspective, the commune is

comprised entirely of Romanians. The village of Dragova resembles the bottom of a bucket. It is surrounded by the Bucegi Mountains to the East and the Iezer-Papusa and Pietra Craiului Mountains to the West (see the map and picture). The village has an altitude of 840 meters and rests at approximately 1240 meters above sea level. Ciocănaș, the highest village in the commune, is located on the historical border between Wallachia and Transylvania. The climate is quite cold, and its average temperature is around four degrees Celsius.

I will present two accounts which ethnographically describe the struggle for the meaning of the past in the commune of Dragova. The first concerns a valuable plot of land next to a cave. The second account deals with an access road disputed by two neighbors.

In the middle of the Dragova, there is a cave which is quite famous throughout Romania and, as a result, attracts a lot of tourists to the village. Thus, the land next to the cave is an important spot in the village because, due to its prominent location, it is the best place to open a guesthouse or a restaurant. Ramona, a sixty-three year old woman, inherited a plot of land next to the cave. Her grandfather bought a small forest plot and the land next to the cave in 1911, and built a restaurant there in the same year.

Ramona's grandfather built a house with two rooms: one room served as a restaurant and the other room served as living quarters for himself, his wife, and their six children, among them Ramona's father. In 1939, her grandfather added more rooms to the restaurant. It is also worth noting that Ramona is a member of one of the oldest and richest families in the village. Her grandparents owned ten of hectares of land and forest. Yet the family's most interesting and lucrative business was this restaurant. The mountain wall behind the restaurant and its position facing the beautiful landscape surrounding a spring, the forest, and, on its right side, the entrance of the cave, made restaurant an excellent place for relaxation. In the interwar period, Ramona's grandfather set up a folk music band for cave visitors. Ramona emphasized that at the time, nobody paid to see the cave. The restaurant, however, was a good business where the family sold pastrami, smoked cheese, and lemonade to tourists.

In 1950s, the communist regime nationalized the restaurant and it was taken over by the Consumption Cooperative.⁹ Ramona notes that her family suffered a great deal because they were considered kulaks. While Ramona's father was merely retained as a waiter at his father's restaurant, Ramona herself worked as an accountant in the Cooperative for a short

period of time. During the last twenty years of the communist period, she kept animals and sold dairy and meat at the market.

In 1996, when the neo-liberal government came to the power, Ramona wanted to claim ownership of the restaurant. It is worth mentioning that she is the wife of the village priest who was both a member of the National Peasant Party and on the local council for the 1996-2000 term. In 2000, he was banned from running for political office (the Synod, the General Assembly of the Orthodox Church, decided that no priest should be involved in formal or informal politics) and Ramona's daughter was elected in his place as member of the Democratic Party.¹⁰ The fact that Ramon's husband was a council member, a representative of one of the coalition parties running the country, as well as the only priest in the village it made it easier for her to sue the Cooperative 1997 to retrieve her family's restaurant. In order to properly analyze this situation, we must consider Ramona's husband's former political position and his symbolic capital as a priest in the local community. Despite his inability to run for public office, he is still an important figure in the village and is highly respected member of the community. Fighting with a priest in an almost exclusively Romanian Orthodox village is not possible unless one is an important political figure, such as the mayor.

Ramona's story is still relevant to this day. Ramona had to fight against the mayor and the present vice-mayor to retrieve her restaurant and the land underneath it. There are several reasons for this land struggle. One reason is that the land next to the cave is the most expensive piece of land in the village due to the high influx of tourists. Before or after visiting the cave, most tourists stop at the restaurant, making the location perfect for a restaurant owner. The second reason for the high value of the land is that the restaurant competes heavily with the vice-mayor's restaurant, which is located at the entrance of the village. The mayor's office pressured the Environment Guard (*Garda de mediu*) to come and verify whether Ramona's restaurant was breaking any environmental laws. The Guard came and found that the mountain's wall was being used as the restaurant's fourth wall of. They wanted to fine Ramona, but she claimed that if the peak of the mountain belongs to her, then the mountain's walls also belong to her. Moreover, members of the Guard were not able to specify what kind of damages the mountain would suffer from such use. Eventually, they left without fining her but they threatened to return in the future.

The struggle between the Ramona, the mayor, and the vice mayor has its core in dispute surrounding that piece of land. Ramona emphasizes

the fact that her family has owned the land next to the cave for almost a century, arguing that it was her grandfather who built the restaurant in the first place. The mayor and the vice mayor argue that her grandfather did, indeed, own a small plot in that area, but rather on the top of the cave on the peak of the mountain. Ramona reiterated that since her grandfather owned the peak, the bottom of the hill was his as well.

The second ethnographic account concerns an access road whose ownership is contested by two families. Here, too, the past was used by both families in order to claim ownership of the land. The geography of the village makes the location of the land plot a very important, if not essential, factor in land value. This particular piece of land is located next to the main road and only several kilometers away from the village, making it worth much more money than land "in the mountain." A plot located "in the mountain" is worth virtually nothing while a plot next to the main road is very valuable. Land located next to the main road could be sold to those who want to build a guesthouse if they have enough money to do so. Several villagers gained an important advantage by inheriting land next to the main road. Conversely, other villagers, who have homes and land at the edge of the village, have problems attracting people to their guesthouses. Since only the principal road is covered with asphalt, the other roads, especially those which go up to Ciocănaș village, are almost impossible to navigate with a regular city car.¹¹ Only good off-road cars are able to drive on these roads, especially when it rains. Thus, we have to imagine that in the rugged landscape of Dragova, road access represents an essential factor for in land value.

There are several land conflicts in the village caused by misunderstandings surrounding the access road. One or two generations ago, the village forefathers had made a verbal agreement concerning the use of the access road, and no conflicts had occurred until now. The present generation now ignores the previous agreement, resulting in a heated argument about access to the main road.

One day, I witnessed a conflict between two neighbors. One of them wanted to open a guesthouse and had simply blocked off their neighbors' access to the main road (which runs parallel to her backyard). The woman who lost access to her own home argued that there were no official papers which proved her neighbor's ownership of these few square meters of land. In fact, in the Agricultural Register proves that the road area is registered to the family who blocked the road. Her neighbor, however, referred to another, albeit unofficial document signed by two second-degree cousins.

She showed this paper to me and the vice-mayor, who was there to mitigate the conflict. Here, it is worth mentioning that the two families are closely related; their grandparents were brothers. The handwritten paper stipulated that the two cousins whose homes were next to one another had agreed upon the following: since the road was destroyed by the heavy rains in 1966, the cousin who owned the land through which the access road passed had agreed to give up that piece of land and build another access road. The cousin who had just gained the small piece of land helped him to build a new access road. In turn, the new “owner” of the small plot helped with the construction of the new road by carrying stones with his horse cart. At the end of the document, they stipulated that no member of either family (i.e. their heirs) should challenge this agreement. The document was signed and dated October 1973.

Moreover, disputed road is actually the outcome of the shared effort of two brothers who are the grandfathers to the two cousins who signed the agreement in 1973. The road in question was built in 1903. The present quarrel between the two families could be summarized as follows: one family wants to open a guesthouse and they have already invested fifty million lei (around 1,200 euro) to chamfer the road. The young woman from the family who wants to open the guesthouse argued: “we asked for PHARE funds and the commission laughed and asked us: how do you want to build a guesthouse with such a bad road? You need to repair it and to add some stones in order to make it look like a real road.” She also provided economic and juridical arguments: the cows of the neighboring family will destroy the road, no matter how much money she invests in it, and that ‘dung on the road’ is not an aesthetic vie.” Besides, she wants to “individualize her property” in order to make sure that whatever money she invests in the house and in the road is money invested in *her* land not “somebody else’s property.”

The current owners of either property represent two different generations and have two different stories which are the result of different personal backgrounds. One claimant, a young woman, is a law student and used juridical and economic arguments about private property to prove her right the land. Her opponent, an older woman, spoke of the past and the importance of a good relationship between neighbors, especially when neighbors are also members of the same family. She also mentioned that if her family built another road, the slope would be so steep that they would not even be able to bury her mother in the backyard when she dies (she was 90 years old in 2004). The old woman also emphasized the

“historical argument.” The original road had been built before the First World War and was thus an old road (*drum bătrânesc*) to be used jointly by both households. No one, the old woman argued, should gain more from the road than the other.

Again, the historical argument in claiming rights over land has been brought to the forefront as a central argument in the establishment of current property rights. The neighbors of the two families support the older woman’s claims. The neighbors I spoke to perceive the historical argument as being the most important proof of one’s property rights.

Contesting the Past, Negotiating the Present

This section is dedicated to the analysis of my empirical findings. It shows that even if the ethnographical accounts describe two different situations, we are, in fact, dealing with a single process: the contestation of the past as a powerful tool for negotiating present property relations in the village.

In the case pertaining to the land next to the cave and the restaurant, the historical owner has emphasized all kinds of historical details regarding her rights to the restaurant. The detailed account she gave me shows that her claims are based entirely on her historical rights to the restaurant and the plot of land. In addition to emphasizing her historical rights, she also calls attention to the fact that her family was one of the richest families in the village before the communist regime came to power. Moreover, she highlighted that her family worked hard to maintain the restaurant and the land. She indicated that she had inherited her ability to do “hard work” from grandparents (*gospodari*). She also emphasized hard times her family experienced during communism and the humiliation her family had faced for owning that restaurant.

Her opponents in this conflict, the mayor and the vice-mayor, emphasized that the ancient restaurant had been a hovel, and the Cooperative had put a lot of money into it. “This is actually a new restaurant,” they argued. Thus, they maintain that it should be privatized through market mechanisms rather than being returned to its former owners. “Whoever offers more money should gain ownership of the restaurant” the mayor said. By sending the Environment Guard to check on the restaurant, the mayor and the vice-mayor hoped to prove that the historical owner was not able to properly run it, simultaneously “showing

off” their political power on a local and regional level. Moreover, since the woman’s daughter is a member of the local council, the mayor tried to negotiate the matter with her. If she does not vote against his local wood business, he promised to leave her mother alone. Thus, through the contestation of the past, the mayor tried to negotiate the actual property relations in the village.

The second ethnographic account, regarding rights to the access road, also proves that history is an important argument in present property relations. The fact that the road was built by two brothers at the beginning of the twentieth century is the basis for prevailing economic and juridical arguments offered by the other family. By getting neighbors to support her argument, the older woman demonstrated that not just the economic importance, but the cultural meaning of the land has value in such a dispute. As one neighbor pointed out, “one should never break an ancient understanding within the family only to gain some money.” Negotiating the history of that small piece of land so important for both families, assigns cultural meaning to the land and exemplifies property’s importance in social and family relations aside from economic aspects. In order to be used in actual property negotiations, the past must be socially sanctioned. This means that in order to be useful, memories of the past must be socially accepted by most of the members of the community. The past is instrumentalized by different actors in order to legitimize their present claims on land.

Conclusions

This study focuses on one of the issues of property in postsocialism, namely negotiations surrounding land rights. In these negotiations, the local past is used as a powerful instrument to prove one’s ownership. Ethnographical findings suggest that “historical memory” is not only socially constructed, as Cellarius (2004) has pointed out, but that it is constructed to achieve a certain goal; it is used as a tool in actual property negotiation. Sometimes, as the ethnographic account regarding the access road has demonstrated, the past itself is negotiated among different actors. From this point of view, I can go even further in defining property. I understand property not only as an ongoing negotiation among different actors (Sikor, Stahl, Dorondel 2009) or simply as the negotiated outcome of power relations (Verdery 2004), but also as a social *process* linked to

legitimization, contestation, and negotiation. The legitimization of a claim is brought about by the negotiation of the past and the instrumentalization of memories of different places. The pre-socialist and socialist past are negotiated by different actors. This negotiation is a contest among different *pasts*. Everyone remembers the past and uses it to legitimate present property claim and, simultaneously contests others' interpretations of past. As I have demonstrated elsewhere (Dorondel 2005), those people or groups of people who are able to impose their narratives of the past are those who gain access to land and forest areas.

However, in this particular case, it is not simply about access to land but about imposing social actors' memories on land claimed as their property. In this case, if memories are socially supported by the community, or at least by the neighbors, they become an important way of regulating actual property relations. Thus, as these ethnographical accounts have shown, postsocialist property restitution is an ongoing process rather than a static procedure.

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Construction works in the center of Dragova



Construction works in the center of Dragova

NOTES

- ¹ This paper is a part of a larger project called *Rural Transformation, Social Differentiation and Land Use Change in Postsocialist Romania. The whole project will take the form of a book and will be submitted next year to the Berghahn Books.*
- ² At that moment the big land properties, over 50 hectares, dropped from 47,7% to 10,4% (Badescu 1981 quoted in Miftode 1984 : 48).
- ³ Distribution refers to agricultural land only. Forest has not been the subject of distribution.
- ⁴ The legitimate owners are only those land claimants who are able to demonstrate that they or their relatives had owned land before collectivization.
- ⁵ This is not the place to analyze how much Law 18/1991 is the outcome of the traditional parties and how much is it the outcome of the external pressures of donors as World Bank or IMF (Verdery 1996; 1999). The international evolution had an important role in changes in property rights regime in Romania. However, in the same period of time when Law 18 was passed through Parliament, the NSF (The National Salvation Front), the party which run the country at that time, had a strong political discourse against the danger of the 'return' of noblemen (*moșieri*) and the danger of 'bondage' revival.
- ⁶ The Agricultural registers are those books held by the mayor's offices in which all households are registered with the name, the members of the household, number and size of the buildings, numbers of animals and the land ownership of the household.
- ⁷ Law 18/1991 creates the organisms which administer and control the stipulations of the law regarding the land. First of all, it creates two commissions which deal with the decollectivization. The liquidation commission has established the way in which the assets of the collective farm (animals and the orchards) would be given to the former cooperative members. This commission also had to establish the liabilities of the former collective farms (the debts to the bank). A second commission has been constituted in order to establish the property rights within the commune. This is run by the mayor (art. 11). The local commission would function under the leadership of the regional land commission. This regional commission has the power to validate or invalidate the communal commission's decisions. The only way a land owner could change the regional commission's decision is through a court decision (art. 11).
- ⁸ The name of the river, as well as the name of the villages and of the commune, is a pseudonym.

- ⁹ The Consumption Cooperative was an institution which could be defined something like between a general store and a restaurant. Almost every commune in Romania, during socialism, had such an institution.
- ¹⁰ After 2000 the National Peasant Party was not elected anymore for the Parliament. That is why, probably, the daughter has run for a different party.
- ¹¹ There are big altitude differences in Dragova. While in front of the mayor's office, located in the middle of the village, on the main road, the altitude is 854 m, Ciocănaș village is situated at the altitude of 1154 m.

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