

Problems of Property Restitution in Transylvania

By Katherine Verdery

In February 1991, the Romanian parliament passed a law for the restoration of land to its former owners. Known as Law 18/1991, the Law on Agricultural Land Resources (Legea Fondului Funciar) liquidated collective farms and returned their lands to the households that had given them over at collectivization (1959-1962).

"Land doesn't expand and it doesn't contract;
we'll find your piece of it."

(Judge in a court case over land)

"Hey! Since when did my garden shrink?"
"It didn't shrink, it stretched."

(Two neighbors arguing over the boundary between their gardens)

"The day will come when a man will go out into
his field and not know where it begins or ends."

(Biblical reference cited by villagers to prove the imminent end of the world)
In memory of Ioan Aluas

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The former owners recover not merely usufruct, or use rights, but full rights of ownership. An American urbanite might imagine (as I did myself) that this process would unfold something as follows. Land was collectivized by putting together all peasant farms in a village and working them in common. Therefore, because a field and its constituent parcels are fixed goods--like a table with so many placemats on it, marking where each piece begins and ends--to restore those parcels to their original owners is only a matter of determining the coordinates of the placemats prior to 1959 and reattributing them to whoever had them at the time. This should not be a complicated matter.

Whoever thinks this is mistaken. This essay will show that collectives were not formed simply by putting together peasant farms, that land is not fixed but exceedingly elastic, that collectivization was more a matter of unraveling the placemats than of simply taking them up, and that the better image of decollectivization comes not from the judge quoted above but from villagers' biblical images of apocalypse. Transylvanians will probably never see the full restoration of their earlier rights to land.

There are a number of reasons why property restitution might prove more complicated than its backers--including western governments and lending institutions--had imagined. To begin with, 30 percent of Romania's agricultural land was in *state* farms (IASs), not in *collective* farms (CAPs), and Law 18 disbands only the latter. The state justifies this decision as necessary to ensure that food is still produced (on the state farms) while the collectives are being dismantled. But this leaves many prior landowners locked out of properties that happen to be located in state farms, and they have resisted both by suits and by forcible occupations. More problematically, Law 18 recreates the property situation *as of 1959* for a society existing 30 years later. Thus, 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. The result has been conflicts among kin, among members of different ethnic groups, between villagers who had land before and those who did not, and between village residents who remained in the village and those who emigrated to an easier life in town. Law 18 has thus produced a degree of upheaval and tension in rural areas nearly as disruptive as that of collectivization itself.

I will concentrate less on these two sources of difficulty in the application of Law 18 than on a third: the present consequences of socialism's operation and especially of its treatment of land. By erasing the grid of property from the landscape, by removing the boundaries that immobilized land--by removing, as it were, the tacks that held the placemats to specific sites on the table--socialism engendered a landscape with elastic qualities. Given the political decision to restore prior ownership rather than simply to distribute land, this elasticity kindles dissension and opens wide spaces for maneuver by the village and commune elites charged with reimposing a grid.

Unlike earlier times and places in which seemingly unbounded land became the object of possession, however (one thinks of the enclosures, or the colonization of the Americas), this elasticity confronts a social memory of a landscape with edges, with owners, a landscape corseted by the spatial grid of a rationalizing economy and state. Property restitution is therefore, like Kundera's proverbial struggle of memory against forgetting, a struggle of certain groups and persons to tie property down against others who would keep its edges flexible, uncertain, amorphous. It is a struggle of particularization against abstraction, of specific clods of earth against aggregate figures on paper, and of particular individuals and families, reasserting thereby their specificity against a collectivist order that had sought to efface it. The story of property restitution is a story of forming (or failing to form) potentially new kinds of persons, along with new social identities based in property and possessing. This story is part of the larger drama of transforming Romania's class structure, economy and system of state power.

In what follows, I speak often of land that moves, stretches, evaporates -- of land that acts.³ This locution is apt. In early 1990s Romania, not only land but social life itself has lost its moorings. People's conceptions of their world, the parameters of their long-standing survival strategies, their sense of who is friend and who enemy, the social context in which they had defined themselves and anchored their lives--all have been overthrown. Social institutions are in a process of redefinition and flux, and once-recognizable groupings and structural positions have lost contour. "The state" is not the state of before, nor the courts, nor the police, and political parties are still little more than shifting conglomerates of friends and their networks. It is not yet clear either to participants or to analysts what structures will ground social action in the future. In such fluid circumstances, when the slots that define the possibilities for human agency are up for grabs, the few things that appear solid--such as land--suddenly take on new importance. But even this solidity turns out, as I will show, to be an illusion. By revealing

it as such, I hope to capture the sense of profound dislocation that prevails in the Transylvanian countryside.

THE LAW CONCERNING AGRICULTURAL LAND RESOURCES

In contrast to property restitution in some other post-socialist contexts such as Albania, Russia and Armenia, but similarly to 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 to recreate the property regime that existed before collectivization. There are a few exceptions to fully reconstituting the *status quo ante*.

- 1) No owner will receive more than ten hectares.
- 2) The minimum holding to be reconstituted is one-half hectare.
- 3) People with land in the area of state farms (IASs), rather than the CAPs, will receive not land but dividends from the proceeds of those farms.
- 4) Although owners are "as a rule" [*de regula*] to receive land on their "former sites" [*vechile amplasamente*],--that is, the precise parcels they had owned before 5--where construction or other changes in land use obviate this they will get equivalent pieces elsewhere.

One need not be resident in a village to receive land, then, nor does one receive it in some proportion to one's capacity to work it. Moreover, people who worked for decades on a collective form but had given it no land might get nothing at all. Restitution for some thus means deprivation for others. The law specifies that such people should receive up to one-half hectare if there is land in excess of the claims of former owners; it even invites land commissions to *create* excess land by subtracting a fixed percentage--the "reduction coefficient"--from the reconstituted holdings; and it gives commissions the option of consolidating parcels instead of reproducing the fragmented property structure of the 1930s. These provisions, together with the ten-hectare limit, mean that Law 18 aims not quite at full property restitution but, rather, at restitution touched with agrarian reform. Since many Transylvanian villages have no excess land (the reduction coefficient having been misapplied) and since field consolidation is infrequent, agrarian reform has faltered.

How did it happen that Romania is partly resuscitating the past in this way, seeking to lift out whole chunks of the communist period as if it had never occurred? This is a complex question, since similar decisions were made in other east-bloc countries for varying political reasons. In all of them, however, the collapse of communist parties that many had believed eternal showed people that their understanding of their past was grievously mistaken; as a result, they have sought a more secure, usable past to give compass to their trajectories and the pre-communist order is the readiest available. Important in refashioning the past, in Romania as elsewhere, was widespread popular revulsion to "communism" and all it stood for. That sentiment was politically articulated by different groups in different countries. In the Romanian case, its spokesmen were the reanimated "historical parties" of the interwar years, most particularly the Liberal and National Peasant parties. These were revived in 1990 by some of their now-aged former members, many of whom the communists had jailed while confiscating their property. Jail and confiscation, in the anti-communist public mood of 1990-1991, became significant moral/political assets and qualified the programs of the historical parties as touchstones of anti-communism. Thus, their call to restore property that had been either confiscated outright or coerced from its owners gained wide resonance. Anti-communist feeling was so pervasive that even the former communists of the governing National Salvation Front were forced into the clamor to restore property to its former owners. They had sought initially to preempt this demand by giving one-half hectare to everyone living in rural areas, regardless of prior ownership status. But at that political moment in Romania, it was impossible to reverse course: the influence of the historical parties had given the idea of property *restitution*, rather than simple redistribution, too much momentum. Law 18 was nevertheless a political compromise. Although all agreed to premise the law on restitution rather than land reform, the governing party managed--over the objections of the historical parties--to impose a limit of ten hectares on reconstituted holdings. The change was crucial. Justified as a measure to promote social

equity (to permit giving land to as many people as possible, including those who had worked in the collectives but had not owned land), its effect was to preclude the re-creation of a viable, propertied middle class in agriculture, one that might exert certain kinds of pressure on the state. The passage of this limit by the parliament indicates the balance of forces in Romanian politics at the time: anti-communist groups allied with an older class of owners (represented by the historical parties) lost out to the newer class of *apparatchiks*, the political base of the National Salvation Front.

This is especially clear in the discrepancy between amounts one can inherit and amounts one can thereafter acquire. Regardless of the number of heirs, no farm existing in the 1950s can be reconstituted with more than ten hectares--that is, if a father had twenty hectares in 1958 and then died, leaving two sons, they will not each receive ten hectares but must instead split a single ten-hectare farm. The law stipulates that once people have received land, however, they may freely "acquire by any legal means" up to a limit of 100 hectares. Certain groups of people were better situated than others to obtain land after 1991, either because they had more money to buy it or because they had the means to make fraudulent acquisition appear legal. These included newly elected mayors, plus the rural agrarian elite of the communist period, e.g. agronomists and presidents of collective farms, heads of state farms, heads of the agricultural machinery stations--all of whom have the edge in building a new social position, by contrast to the now handicapped precommunist elite. From this we see the "*entrepratchik*" character of the governing party, which accepted certain anti-communist reforms while modifying them to the advantage of the former Communist Party apparatus. This group pushed its advantage further in the 1992 electoral campaign by arguing to rural inhabitants that a victory by the historical parties would mean recreating the large estates of the gentry and ensuring poverty for the rest. For most villagers, then, a vote for Iliescu and his party meant a vote to acquire property rather than give it to the rich of precommunist times. Iliescu's party therefore gained significant political capital by accepting the compromise of land restitution but modifying it in crucial respects, which won it an overwhelming vote in rural areas.

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. Agents of the latter were to be 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 were to receive and with resolving disputes wherever possible. Problem cases would go to the county land commission or to the courts. The actual measuring and assignment of specific parcels to their newly established owners was the job of commissions working in each village, subsets of the commune commission. 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. He therefore has great power over how property restitution proceeds.

I watched the unfolding of this process between September 1993 and June 1994 from the vantage point of the Transylvanian village Aurel Vlaicu, located in the commune of Geoagiu in Hunedoara county. The location is significant, for Transylvania's property history and structure are very different from that of Romania's other parts, owing to the region'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 re-establishing 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. Some features of it are, nevertheless, such as the hiding of land and the socialist treatment of property, both of which have rendered Romania's landed surface flexible and unstable.

ELASTIC SURFACES

As I listened to villagers in Vlaicu, accompanied the village land commission on its rounds and attended court cases about land in the county capital, Deva, I found my mental map of a fixed landscape--a table with placemats--becoming destabilized. Parcels and whole fields seemed to stretch and shrink; a rigid surface was becoming pliable, more like a canvas. It was as if the earth heaved and sank, expanding and diminishing the area contained within a set of two-dimensional coordinates. But Vlaicu does not sit on a faultline. How then to understand the unexpected elasticity of its land, elasticity against which some farming families struggle to impose their claims while others extend it further? How can bits of the earth's surface migrate, expand, disappear, shrink and otherwise behave as anything but firmly fixed in place?

****A Terraphagous River****

For the inhabitants of Vlaicu, perhaps the most dramatic sites for these permutations lie along the river Mures. Like all rivers a kind of living thing, the Mures periodically breaches its confines and becomes a mover of earth. In the past 50 years it has wandered 50 meters southward into village land, biting off people's fields and disgorging them onto the opposite shore or somewhere far downstream. A man--I'll call him Ion--whose parents once worked a parcel in the fertile plain near the river finds today that his claim to that parcel makes him not a farmer but a swimmer. While Ion might reasonably claim instead a parcel on the opposite shore, filled out by alluvial deposits, that shore belongs to another village, Homorod. From a cadastral point of view, the fields there do not exist: they have no topographic numbers. From a practical point of view, however, they exist very much: their rich and productive soil invites tillage by whoever can impose himself successfully upon them--in all likelihood, the local officials who speculate the situation, expelling the untitled and installing themselves. Thus, Ion's hope of recovering elsewhere what the river tore away will likely be frustrated. His family parcel is nowhere: it has simply vanished.

Two things suggest that the river's inconstancy is a political matter, that the elasticities and possibilities inherent in it have political correlates. The first has to do with maps. As of 1994, the best maps of village terrain are those made in the 1880s, when Austro-Hungarian authorities commensed the myriad, minuscule parcels of Transylvania's peasants. But the quadrant of Vlaicu's map that contains the migrant Mures has disappeared from the archive. As the archivist explained to me, the river's disregard for property had produced serious conflicts between Homorod and Vlaicu, and the maps borrowed to compose the differences had somehow disappeared. A careless moment? Or were they inconvenient in the illusion of fixity they offered, in the constraints they placed on creative appropriation?

The second hint as to the river's politics lies in the contrasting nature of property and ownership on its two banks, for Homorod and Vlaicu are two very different kinds of villages. Homorod, on the northern shore, was never collectivized. Although the Communist Party found ways to insinuate itself into hill villages like Homorod, it did not transform them as radically as it did collectivized villages like Vlaicu. Homorod's hillside fields remained the undisturbed private property, then, of those who had owned them for generations. But in Vlaicu, on the southern bank, private ownership was erased. Individual strips were forced from their proprietors and massed into huge blocks, owned in theory and in law by the members collectively and managed in practice by representatives of the Communist Party and the Romanian state. Thus, to the north individualized private interests defending private possession, to the south collectivized public interests pressing the goals of a socialist Romania. And between them an unsettlingly nomadic river.

The Mures--at this bend in its course, at least--seems to have been a partisan of possessive individualism rather than of collective weal. It has eaten the lands of the collective while burping them up for individual owners on the opposite bank. Indeed, it has done so literally with a vengeance, for the fields in Vlaicu that the Mures has carried away were precisely those that landless Homorodeni obtained in the land reform of 1921, only to lose them to collectivization--even though Homorod itself was not touched. When

Vlaicu's collective was formed in 1959, it offered Homorodeni who owned fertile parcels in the floodplain other, less productive lands "in exchange," in locations less suited to mechanized farming (and thus of no use to Vlaicu's CAP). A terraphagous Mures has avenged them.

It is just possible that the Mures has not wandered unaided and that the difference in the status of property on either side influenced its course. An agronomist from Vlaicu explained to me that in the 1960s Homorodeni had profited from local road construction to turn the Mures to their service. As private owners with a particular interest to defend, and as producers of the brandy that lubricates all social relations and that comes mainly from the hills, Homorodeni had bribed the construction crews to dump excess gravel and landfill on their side of the river, thus protecting its shores from erosion and encouraging the river southward. On the Vlaicu side, by contrast, there was no "owner" who would be concerned with erosion and would work against it with plantings or jetties that might check the river's appetite for fresh soil.

Thus did nature and two distinctive forms of ownership combine to move the earth. Surfaces expanded in one place and shrank in another, making the landscape elastic and confounding Vlaicu's land commission with vanished parcels, reconstituted elsewhere, to be usurped by people from other places. This very fact, however, required that other land in Vlaicu also be elastic so as to accommodate the claims of those the river had dispossessed. To what extent and by what means have Vlaicu's fields stretched to oblige this need?

****Stretching Land****

One day in March 1994 the three non-local members of Vlaicu's land commission--the commune mayor, an agronomist, and the topographer assigned from Deva--joined its three local members for a working session. Instead of handling the complaints of the villagers who had flocked to see them, however, the mayor told them to come back the following day. He had a more urgent task: finding some land for claimants from a neighboring village. To this end he asked the topographer to measure on the map the surface area of a particular section of Vlaicu's fields. The topographer moved his ruler around on the map for a bit, made some calculations and announced, "24.7 hectares." "Not enough," replied the mayor. "How much do we need?" "28.4 hectares." The topographer busied himself with the ruler again and a few minutes later announced, "28.2. Close enough?" "Fine," replied the mayor. A 24-hectare field had just grown to 28. This episode entered my fieldnotes under the rubric "stretching land."

I was not privy to other such incidents of stretching, but I learned of ways in which the village's arable surface area as of 1959 had been expanded. The most important was a consequence of the socialist regime's incessant demand that production be ever increased. Target figures were constantly raised, requiring local mayors and collective farm presidents to find new sources of output. In agriculture, this meant efforts to bring new lands into cultivation by filling swamps, plowing pasture to make it arable, draining wetlands and so on. As a result, some villagers whose fields had ended in marshes or pasture in 1959 now find that the arable surface is bigger--and no one else claims it. Their fields have stretched.

This is particularly evident along one street in Vlaicu, where gardens had abutted a swamp. During the 1980s, the collective had cleared the swamp of brush and trees and had bulldozed soil into it to create arable land. The surface area thus gained augments the total available for redistribution to settle villagers' claims. People who repossessed their gardens after 1989 now enjoy many additional square meters of garden more than what they or their parents had before. Hence one man's observation that he owed his newly measured garden to the collective. And thus the reply one villager offered another who was complaining about the measurements being proposed for his garden: "Hey! Since when did my garden shrink?" "It didn't shrink, it stretched."

Perhaps the most elastic zone in the village's surface in 1993-1994 was the land occupied by state farms. Property restitution in Romania to date affects only *collectives*; *state*

farms (IASs, containing 30 percent of the land) have been declared shareholding companies. They cultivate the land as state enterprises but pay the former landowners dividends, set by the Ministry of Agriculture as minimally the cash equivalent of 300 kg. of wheat per share (i.e., per hectare) owned. Early in the decollectivization process, dividends from IASs were paid to many people whose family land did not lie in the actual territory of the state farms, including persons whose land had been confiscated by or forcibly donated to *the state* (in contrast to the *communal* property of collective farms, formed from "voluntary" donations). As initially conceptualized, their parcels were to create a reserve land fund for distribution to landless persons who had worked in the CAPs; meanwhile, the victims of confiscation and forced giving were to be compensated with dividends from the state farm corporation. Thus, some parcels of land would count doubly: as the specific property awarded to a villager (or usurped by some official) *and* as an abstract amount to be compensated in IAS dividends to the land's original owner.

Between 1991 and 1994, IASs became veritable rubber sacks, their shares expanding in some cases well beyond the actual surfaces that the farms occupied. The director of a farm might receive from a mayor a list of shareholders whose shares, when totaled, exceeded the areas actually available, as mayors temporarily stuffed into the IAS "rubber sack" anyone whose case presented problems. Because it was not the land itself but its *product* that was being divided--a product much more divisible, manipulable and convertible than are actual land surfaces--the capacity for stretching land via dividends in the IASs thus considerably expanded the possible surface area of villages. (Since dividend-hungry share-holders--and, in some cases, profit-conscious IAS directors--increasingly insist that only persons whose land actually falls within the perimeter of the IAS should receive dividends, the elasticity of the IASs is diminishing.)

The IAS stretches land in another way, too. Either through confusion or by design, some villagers count twice the areas written on their property affidavit [*adeverinta*]. Let's say Nicolae's affidavit gives him three hectares. He knows that two of them are in the state farm and he collects two hectares' worth of dividends. But in addition, he tells the village post-CAP agricultural association that he wants it to work all his land, which his affidavit shows to be three hectares. The association pays him three hectares' worth of produce, and the IAS gives him two hectares' worth of dividends: thus, Nicolae effectively has five hectares. This kind of fraud or error caused the Vlaicu association significant losses until its accountant realized what was happening. She then cooperated with the IAS director to prevent such duplications (and thus to rigidify the landscape).

****Hidden Land****

Some of the current stretching of land is the simple reflex of earlier shrinkages. Peasants everywhere have always hidden land from authorities; but beginning particularly in the 1950s, Romanian peasants did so with desperation. In 1948, partly to force villagers into collectivizing and partly to assure the post-war state an adequate food supply for its industrial ambitions, the Party assigned each peasant household a delivery quota whose magnitude increased exponentially with the size of the holding. The difference between owning four hectares and owning five could be the difference between having and not having enough to eat for the winter. For those with too much land, one way to handle the problem was to donate or sell parcels to friends or relatives, with the secret understanding that the sale was merely a fiction. This has created myriad difficulties for property restitution, as those who donated their pretend purchases to the CAP are now reluctant to give them back to the real owner. But this practice did not shrink the total land available. Another one, however, did just that: declaring less than one actually held. Because the quotas were set according to agricultural registers based not on existing cadastres but on self-declaration, there was ample opportunity to hide land. One Vlaicu clerk of those years was a notorious drunk and could readily be persuaded, for a bottle of brandy, to reduce the recorded size of one's holdings. (A sociologist from another village told me that his mother had seven different recorded figures for the area of her farm, each figure responding to a particular need of the time, and each the result of liberal applications of brandy.) Any holding thus dipped in brandy shrank the hectareage of not just that person but the entire settlement, thereby invalidating the areas reported in official figures from the 1950s. Such shrinkages have effects in the present, as owners of

shrunken fields often find it difficult now to stretch them back out to their former dimensions. The extra land involved, however, helps to make the village's total area more elastic.

Following collectivization in 1959-1962, authorities further concealed the land that peasants had hidden before. Local officials, pushed to increase their production figures, found it very convenient that peasants had hidden land: it enabled them to swell their productivity by planting and harvesting areas that were officially recorded as smaller than they actually were. If a collective farm sowed 200 hectares and harvested 600 tons, the productivity would be 3000 kg/ha.; but if higher officials thought there were only 150 hectares producing the same 600 tons, the yield would be a much more impressive 4000 kg/ha. The difference might mean a bonus or a promotion for the mayor or farm president. During my fieldwork in Vlaicu in the 1970s, I repeatedly heard that nearby Romos village had the highest productivity in the county. In 1994 I learned that Romos also had 100 hectares or more of land hidden by local authorities (something they were able to do, I was told, because someone from Romos headed the county cadastral office where the figures were kept). Thus, even as commune mayors and collective farm presidents created land by clearing and draining, they also hid some from higher authorities. The category "unproductive land" was, I hear, an especially good hiding place.

This practice was apparently not limited to communes and collective farms. The late Prof. Ion Aluas of Cluj told me that during the 1970s Ceausescu became enraged when satellite maps showed massive discrepancies between the surfaces recorded from the air and those reported from below. Aluas, working on a sociology research contract, was asked to discover what had happened to some of the land missing from the reported statistics of one county. In a conversation with the county first secretary, he was told to stop looking for the missing land "because we need it to be missing." Aluas believed that official collusion in hiding land extended to the top levels of the Ministry of Agriculture, a parallel to the hoarding of raw materials that occurred in all branches of both the Romanian and other socialist economies. This phantom land bedevils the process of impropriation as people discover that the figures they have used to request return of their parental holdings understate those holdings, but without other forms of proof they may not regain all that once was theirs. On the other hand, what some thought would be a four-hectare farm may suddenly mushroom into five.

SHIFTING PERIMETERS

We see from these examples that the area of the village itself is in question. Just how big is Aurel Vlaicu? Just how many hectares are there to be redistributed? The more one pursues this matter, the more elusive it becomes. The uncertainty is itself a further source of the land's capacity to stretch: if no one knows for sure exactly how big Vlaicu is, then there is no fixed limit to how many claimants can be stuffed into its perimeter. Only when villagers seek to occupy their land and find that somehow there isn't enough for everyone are the limits of this elasticity revealed.

Consider the following figures. As of the 1895 agricultural census, the total area of Vlaicu (then Benczencz) was given as 2,301 yokes (1,324 hectares), 1,414 (814 hectares) of them arable. Almost the same figure (2,296 yokes) recurs in a source from 1921, and in a 1941 agricultural census the surface is given as 1,414 arable yokes (814 hectares). So far so good. For the more extensive 1948 agricultural census, taken with an eye to collectivization, two different listings of the raw data give the total surface area as 2,235 yokes (1,287 hectares) and 1,122 hectares; one puts the arable surface area at 920 hectares, the other at 808. The total at the end of collectivization was reportedly 1,309 hectares, of which 948 were arable. The same source lists the total area of the newly formed collective farm as 652 hectares, 84 of them located in *other villages*--superb illustration of the capacity of collectives to stretch the landscape. Figures available for the 1980s show the area variously as 1,657 hectares (1,028 arable) and 1,439 hectares (988 arable). The land commission determined in 1991 that it had either 599 or 631 hectares available for redistribution; this was later revised to 759 hectares, reflecting the return to Vlaicu of a number of fields that had been given to the collective in neighboring Gelmar (though not all of the fields so given). The totals for redistribution exclude land now held

in various state farms, which, according to one list I saw from 1991, totals 801 hectares (683 arable), but the agronomist who discussed this figure with me did not think it accurate. Thus, 814 arable hectares, 920, 808, 948, 1,028, 988, 759--which is it?

Between 1895 and 1994, the borders of the village were periodically changed. Large fields went to landless peasants from nearby villages in the 1921 land reform; reflecting this, one such field does not even figure on the maps used by Vlaicu's CAP in the 1970s. Another substantial area was moved from Vlaicu's CAP to Gelmar in the 1960s. State farms straddled the borders of adjacent villages, making figures for their sizes useless to a researcher seeking to replicate earlier statistics. How big is Vlaicu really? People I asked estimated its arable surface as anywhere from 600 to 800 hectares. I, for one, have no idea how big it really is.

Under these circumstances, it is hardly surprising that talk of "stretching" and "shrinking" is widespread. Contrary to the judge in my epigraph, who stated in court, "The land doesn't expand and it doesn't contract; we'll find your piece of it," people in Vlaicu speak of land that changes size and shape. "Hey, since when did my garden shrink?" "If it rains a bit more, maybe the surface will stretch out a little." "Why do they keep remeasuring the land every year? Do they think it contracts and expands in the meantime?" "That's what you're doing, Mr. Topographer, stretching land. You don't shrink it much, but you do stretch it out." "How can a bigger piece of land get littler?!" "The land commission gave land to everyone who asked for it, but if you put all this land end to end it would reach to Budapest." The land begins to take on plastic properties: it pulsates and heaves, oozes out at the borders, and evaporates into nothing. "I can't understand where my land has gone! It was there on Monday and by Wednesday it had vanished!" (Even newspapers sometimes use this language: note the headline, "Are hectares evaporating?") Land reproduces spontaneously, too, in surprising ways: "Vasile's family had only five hectares, and now look, his holdings amount to twice that." For some, it seems land can be moved around at will. "That guy brought his holding down from the hillside into the plain." "Mrs. S was here the other day, trying to move her land from Vinerea village over to Vlaicu." It can actually migrate quite far, as with the land of a friend from town who said, "When my parents worked our land, it was right there in the village; now they tell me it's in the state farm 50 miles away."

THE PROPERTY REGIME OF SOCIALISM AND THE ROOTS OF SOCIAL CONFLICT

How is it that seemingly fixed surfaces have become so pliable? Some of the many answers to this question have been suggested above--land reclamation by mayors and CAP presidents, the hiding of land by both peasants and officials, and so on. There are additional reasons for the present elasticity and they have to do with how the past regime treated the properties under its charge. First and most obviously, collective farms were worked in huge blocks, not in the maze of tiny fields of the 1930s. To create these huge blocks one had to obliterate all distinguishing signs from the landscape: trees and hedgerows were cut down, boundary stones between fields removed. To rationalize and reorganize cultivation, CAPs bulldozed old ditches and dug new ones; plowed over dirt paths and roadways and carved out roads more suited to the new, expanded use of fields; plowed crosswise across what had been tens of strips plowed lengthwise--this alters the land's very conformation. Most of the signs whereby people had recognized their property disappeared. If a farmer's fields once began at a particular willow tree, that tree was now gone.

In consequence, decollectivization has become a war between competing social memories (and memory, as is well known, is exceedingly elastic). It is a war fought on very shifting sands, for the surface is now wholly relativized. I asked many people whether, when it came time to repossess their family land, they had known where it was. Most of the older people said yes, but when asked to describe how I might know when I got to their field, nearly all could give only a relative response, such as: "Well, the first parcel next to the road in Hillside field is Iosif's, the second is my cousin Petru's, and the third is mine." It was the rare answer that invoked a fixed reference point--a tree still standing after 30 years, the crossbars of the railway signal. Thus, fields have drifted from their original moorings in space. Even reference to the roads or ditches was not certain, for these too had changed in the meantime. "Stoian never had *two* roads on his land;

one of them should be plowed up." "It's not right to measure my garden by the ditch along here, because that ditch was in a different place 30 years ago." Such were the complaints of Vlaiceni to the village land commission. Its meetings were filled with shouting and acrimony, as people contradicted one another's memory of how the land lay in the past.

The vehicles of memory include written records that often complicate rather than solve the problem. Under the Austrian land registry system introduced in the 1860s, each household was listed with all the parcels to which it had rights; thenceforth, any transaction involving any parcel was to be entered into this register (*Cartea Funciara*) at the notary's office. For those whose parents or grandparents had gone to the trouble and expense of registering their property, an entry in the Land Register now serves as near-definitive proof of ownership, even if it does not accord with other declarations. But not everyone entered property into the Land Register. Poorer peasants during the 1930s and 1940s might simply not have bothered, since registration cost money. Especially in the 1950s, when peasants were buying or getting rid of land on the sly, they might have sold it with a handwritten document and two witnesses, but not entered the transaction officially. Most importantly of all, after 1948 the new communist power consistently ignored land registration; they had abolished most private landed property and had no use for its proofs. Although some people still went to register the purchase of a house or garden, the collective farm's extensive modifications in ownership and usufruct rights went unrecorded.

It is not that the socialist regime ceased to acknowledge property at all. To the contrary: within socialist party as a whole, the distinction between state property and the property designated as collective was enshrined in law, if not fully in practice. The property of collectives was marked by its "volitional" character, the "free consent" behind the donations that formed them. It was also distinct in belonging collectively only to the group of persons who had actually donated the land and assets; other forms of socialist property, by contrast, belonged to the "people as a whole," not to some subset of it. Thus, while those other forms could be managed by representatives of the "people as a whole," namely the Romanian Communist Party, collective farms were in theory to be managed only by the representatives of that small group who had donated land to them. The state was in theory not supposed to determine activity within collectives, it could only suggest, guide or recommend. The distinction between the two forms of property underlies Romania's procedure in returning land: collective farm property goes back to those who donated it, but state farms remain as state-directed enterprises.

In practice, officials often disregarded the distinction between forms of socialist property, giving orders to CAP presidents and forcing policies on farms in the name of a higher rationality. A 1974 law textbook implies that one result of this gap between theory and practice was debate as to whether the acts emitted by collectives--which were nonstatel entities--have the same jural status and consequences as those of statel entities. The answer to this question is of great moment for property restitution and for the confusion it breeds, owing to the ways in which local authorities allocated property rights and exchanged property between state and collective farms.

****Socialist Property and the Allocation of Use Rights****

Collective farms were empowered to assign property rights to their members, particularly in two forms: 1) house-lots and 2) use rights to the so-called private (or usufruct) plots held by CAP members. Village offspring who wanted to build houses, persons moving into the village from elsewhere or villagers with peripheral houses who wanted to move closer to the center might apply to the CAP for a lot on which to build. The parcel granted might even include a garden large enough to serve as a private plot. While this parcel was inevitably the former possession of some proprietor, with the socialization of land such details ceased to matter. As villagers recover their property rights, those who once owned the land on which others have built houses lose the right to 1000 square meters of that land--the space occupied by the house and a small garden--but can claim the rest of it, and they can also claim an equivalent of the 1000 square meters in some other part of the village. Similarly, if they are gracious enough to leave the owner of the house the

entire garden behind it, beyond the specified 1000 square meters, they can also claim *that whole area* elsewhere.

These provisions have two important consequences, one for social relations and one for the elasticity of land. First, the interests of people living on house-lots allocated by the CAP are set in opposition to those of the former owners. Where the landowner claims all beyond the 1000 square meters the law allows, the householder may be left with inadequate land to sustain livelihood. Since people who received CAP house-lots were usually from other villages and did not bring land into the CAP, they receive no land now except for that around their houses. Many of them have lost the industrial jobs for which they moved into Vlaicu (with its proximity to transport and several factory towns); losing their household gardens is thus potentially catastrophic. The conflict over household gardens is one cause of the heightened hostility between "locals" and "inmigrants" [*bastinasi* and *nou-veniti*], a hostility many of the latter see as a new form of class conflict. The result of their landlessness is that they have no choice but to sharecrop on the fields of the new proprietors, if they are to have anything to eat. It is a prospect they do not relish: as several of these inmigrants said to me, "We don't want to be serfs to the local 'nobility'!"

The second consequence of the house-lot/garden problem is that the surface of Vlaicu must indeed be elastic since it must accommodate the claims of landowners to equivalent land elsewhere. For every ten households given the minimal 1000 square meters, an extra hectare of land must materialize out of nowhere to be given the former owners. For every expanded garden left to its new occupants, even more land must be found. Those villagers who have magnanimously left larger gardens to householders on their land do not seem to realize that their choice implies an elastic surface; they simply assume that land will be found elsewhere. The situation is even more complex if, as in Vlaicu, the land of the house-lots is now claimed by *three* different owners, *two* of whom can expect compensatory parcels. This situation arises where land was confiscated in the land reform of 1945 and given to other owners, then donated to the collective by those new owners only to be allocated to yet a third person for a house. In Vlaicu, approximately 30 houses sit on such land.

The problem of house-lots and gardens has proved a jural nightmare, in part because of the point raised above: the jural status of the collective's allocations of land is now open to legal challenge. Moreover, householders who have been using a garden plot for many years have the legal right to claim it on the basis of longstanding use. Some judges generally support the claims of householders against the original owners as a matter of equity; others decide on a case-by-case basis. But the judges with whom I spoke said that lawsuits over ownership rights to household gardens are among the two or three most numerous and problematic of those relating to property restitution.

Land must stretch to accommodate extra amounts not only for those whose land went to others as house-lots but also for those with land the CAP withdrew from cultivation for infrastructural improvements. The buildings of collective farms occupy land that can no longer be used. On a larger scale are levies built around villages along the Mures. The levy in Vlaicu occupies about 35 hectares of land that cannot be restored to its original owners; the law states that they must receive compensatory land elsewhere. Once again, Vlaicu's perimeter must be elastic.

****Exchanges of Land****

If CAP-allocated house-lots generate one set of problems, another comes from land exchanges that took place during collectivization. These were of three kinds: between CAPs and individuals, between CAPs and state farms, and among CAPs. Decree 151 (1950) enabled collectives-in-formation to work contiguous parcels by exchanging land with individuals. If villagers had joined the collective (or its precursor, the association [*intovarasire*]) but their lands did not form contiguous blocks, officials had the right to exchange the lands of non-members situated in the middle of collective lands for parcels at its edge. State farms seeking to consolidate their fields had the same prerogative. Individuals could not refuse these exchanges, by which many found themselves owners

of parcels much inferior to those they had been compelled to turn over. Indeed, the decree stated that the contracts for such exchanges were valid even without signatures of the owners thus displaced, as long as the local authorities invoked decree 151 in their records.

These exchanges of land create difficulties now because many of those compelled to make them refuse to accept anything but their original parcel, even though the holding entered in CAP records--and which they should thus receive back--is not their original parcel but the one they were given in exchange. Some have brought legal challenges based on the widespread failure of local authorities to draw up the contracts stipulated in decree 151. Thus, where local officials were cavalier in their treatment of property during collectivization, people now have room to challenge the jural status of such actions. One result, of course, is further tension within local communities, for the attempt to recover one's original land means taking it away from the early-collective member for whose parcel it was exchanged. Because the land amalgamated into CAPs was generally of higher quality than that given in exchange, conflict has reappeared between richer and poorer villagers having superior and inferior land.

In the same spirit of rational cultivation, CAPs and state farms often exchanged the donated or confiscated lands that comprised them. Such exchanges were especially likely in cases (frequent enough) where a villager had land in another settlement: e.g. a woman who had migrated or married into village A might have kept dowry lands in her home village B. If, conversely, someone from A had moved into village B, A's CAP and B's state farm could easily exchange their two "alien" parcels. Because CAPs and state farms held the property rights to the land, they could dispose of it as necessary to pursue their objectives; the wishes of the former owners had no place in such exchanges. The difficulty, however, is that only the *collectives* are being disbanded, while the state farms remain intact. Thus, a person whose land was given to a CAP and was exchanged for land in a state farm might not receive the original land but only the (inferior) dividends paid to shareholders in the state farm corporation. This was the case of the person quoted above, whose family land was in the village but who now finds himself entitled to dividends from land 50 km away. Many in this situation have challenged the rulings of their land commissions, refusing to receive dividends and suing for return of their original parcel. Again, their suit comes at the expense of the current occupant of that parcel, who would be forced into becoming a shareholder instead of an owner and who, as a result, drags out the inevitable court case as long as possible.

Collectives also consolidated their fields by exchanging land with neighboring collectives or uncollectivized villages. Earlier patterns of marriage make neighboring settlements especially likely to have within their borders land owned by people in adjacent the villages; collectives rationalized cultivation by exchanging such pieces, in some cases even shifting the borders of villages or CAPs as a result. This has posed several problems for land restitution. First, people's land is listed in the village whose collective they entered, not in the one where their land is actually located. A commission may therefore think it has resolved all claims within village boundaries only to meet unexpected claims from outsiders. The land must therefore become even more elastic, since commissions would have established the reduction coefficient for creating extra land as a function of the surface area that villagers had requested in the first round; they are unprepared to come up with even more. From this kind of exigency came the "land-stretching" episode I described above.

Second, previous exchanges of land between neighboring collectives or villages complicate the matter of assessing how much land a village commission has at its disposal. In Vlaicu, the boundary with neighboring Gelmar is now quite indeterminate, having shifted back and forth. Ownership in this interstitial area is in a chaotic state: property belonging to people from four different villages (Vlaicu, Gelmar, Geoagiu and uncollectivized Homorod) is all mixed up here; the "migrations" of the Mures diminished the total surface area of the collectives; and a large estate, expropriated in 1945, straddles the border such that its size is almost impossible for anyone but the local authorities to discover (and they are not interested in revealing it). The administrative decision to return some border fields to Vlaicu increases the total hectareage its land

commission controls; if unclaimed, that land will augment the surplus available for other claimants (such as those owed for house-lots). When Vlaicu's fields came "home" to Vlaicu from Gelmar, then, Vlaicu's land was stretched.

Special problems stem from exchanges between collectivized and uncollectivized villages. Because land in the plains is much better than that in the hills, hill people have long sought to buy land in villages like Vlaicu. Some of them received it in other ways, such as the hill villagers of Homorod who acquired land in Vlaicu's perimeter through the 1921 land reform. Collectives exchanged land with these hill people as with anyone else, taking their lowland parcels in exchange either for other lowland parcels, unworkable by the CAP, or for upland parcels owned by hill people who had moved downhill and joined the CAP, giving it their upland plots. Since 1990, even residents of hill villages that were never collectivized are recovering lost land--and in some cases also refusing to relinquish the "unworkable" plots they received, which they claim by virtue of 30 years' undisturbed use. Indeed, it is precisely these uplanders who seem to have pushed Geoagiu's land commission to restore property *on its former (pre-1959) sites*--something Law 18 did not require but left optional. A member of the commission explained to me that as soon as decollectivization was broached, people from the uncollectivized hill village of Boiu began entering into and forcibly occupying their former lands in collectivized lowland Cigmau (both settlements are in Geoagiu, related to one another like Homorod and Vlaicu). With the help of a local son who had become a lawyer, Boieni threatened to sue the commune commission unless they received precisely those lowland parcels they had owned before 1959. They flatly refused to keep the parcels forced on them in exchange during Cigmau's collectivization. Perhaps they defended their rights so promptly and vigorously because, while memories of property were fading from the minds of collectivists, hill villagers had retained a strong sense of private ownership.

Still another consequence of how the collectives treated land has pitted immigrants against locals. Admirably demonstrating that land is not fixed, collectives accepted as members immigrants who had contributed land situated in their home villages. Their names are on the list of petitions to enter Vlaicu's collective (one of the sources for determining property restitution) with a hectare or two, but these hectares are not in Vlaicu. In one case, the hectare is nowhere at all, having been invented so its "owner" would look as if he were contributing something to his new home. Nonetheless, because their names are on the list, such people theoretically have the right to claim land. In the first year of the restitution process most of them received parcels, which they lost later when it became clear that in Vlaicu there was not enough land to go around. The result is a new class struggle in the village, for the locals' seemingly insatiable claims have deprived the immigrants of land by pushing Vlaicu's elasticity to its limits.

Thus perhaps the most important source of the elasticity of land is that the communists treated it as a movable rather than an immovable good, as aggregate quantities rather than concrete qualities. Abstracting ownership from particular clods of earth into figures on paper, they shuffled those figures insouciantly among social actors. Land under socialism became a matter of totals manipulated in the interest of "the whole," irrespective of the particularities of prior ownership rights (not to mention those of plan-resistant local soils). Law 18 empowers villagers to reassert those particularities as they struggle to fix land in place, causing it to writhe and stretch under the weight of so many conflicting claims.

PROBLEMS IN PROPERTY RESTITUTION

****The Local Commissions and Their Work****

The disarray accompanying property restitution takes many forms besides those already suggested. I will describe a number of the problems I observed in Vlaicu, some of them specific to that place and most of them more widely found in Transylvania and even Romania as a whole. First, the composition and activities of the Vlaicu land commission. Its three members were supposed to have been elected by the village, but those on the 1993-1994 commission were in fact chosen by commune officials to replace the three men elected at the outset. Those first three had proven (by their account) unwilling to

play along with the mayor and his cronies' desires to give excess land to friends and too little to others. Many villagers see all three 1993-1994 members as socially problematic: they claim that one is drunk most of the time (which does not prevent him from asserting with conviction his views about whose land should be where); another has at best middling prestige; and the third is a renowned troublemaker who often changes his mind about "the truth" of any matter under discussion. These three, then, judge the fates of Vlaiceni in quest of land. They agree on almost nothing and regularly undercut one another in private. My impression, in listening to them argue over various cases, was that the knowledge they collectively produced was as flexible and shifting as the surfaces to which they applied it.

Also open to improvement is the commission's modus operandi. The three assemble in the office of the post-collective agricultural association, there to be joined by the topographer and an agronomist from the commune center. On rare occasions the mayor, president of the commission, might also appear. Given where they meet, there are usually two additional people: the agronomist and accountant of the association, who have strong interests in the outcome of disputes involving the land of association members and who are eager to argue their views. The commission meets irregularly, sometimes not constituting itself for months on end, then appearing three or four days a week for a while, then disappearing again. When it meets, villagers hear by word of mouth and come to the office with their complaints.

The commission has no procedure for handling one case at a time. Three or four people might come in, one makes a complaint, the commission members begin to discuss it, then someone else launches a different problem, everyone's attention turns to the new plaintiff, then a third interrupts in the same way. The topographer or commune agronomist might go outside with one or another person, possibly to reach an understanding "among four eyes," as the Romanian saying has it. The whole procedure resembles a juggling act, as one, then another, then another ball go up into the air, none of them falling out into some sort of resolution. Often the outcome is, "We'll have to measure there again, but we can't do that until next fall after the crops have been harvested." In this way cases drag on, unresolved for several seasons.

Complaints to the commission frequently center on problems of measurement. People solicit remeasurement of parcels that were measured already, complaining that neighbors have removed the markers and encroached on their land. Given the flimsiness of most markers, this is a plausible scenario, but the topographer has grown ever more exasperated at the waste of time that remeasuring entails. Other measurement problems arise because the commission does not always do its initial measuring properly. For example, they might measure a parcel's front end but not its far end. When the new owner goes out to plow, he discovers that at the far end his parcel has vanished into nothing, since neighboring furrows are not straight. This means that the entire section has to be remeasured; with fields already plowed and sown, however, no one but the aggrieved party wants to revise the boundaries. In such circumstances, one solution is to sign the land over to the association and let its officers argue for remeasuring. In fact, giving land to the association for a season or two seems to be a common strategy for resolving disputes between persons who want to avoid friction. The association, for its part, wants to control as much land as possible so as to maximize possibilities for rational cultivation and income. It has thus become a prime force for clarity in the reassertion of Vlaicu's property grid.

Additional problems arise from competing claims to land on the border between villages; they occur because different topographers have been in charge of measuring and giving out land in different places. Thus, one case involved a complaint by person X to topographer A that person Y had been given rights to X's land, while Y claimed he had gotten these rights from topographer B (a man known for taking bribes), assigned to the neighboring village. The topographer assigned to Vlaicu might perform his work conscientiously but find himself giving out areas already given out by someone else. And because people coming from neighboring villages to claim land in Vlaicu do not always bring documentation, the topographer cannot be as conscientious as he might like. I witnessed one case in which a couple came from some distance away to claim three

hectares in Vlaicu but had not brought their property affidavit. Even had they brought it, the topographer would not know whether their land was in the territory of the former CAP or in that of the state farm since the affidavits give only the amount of land awarded, not its location. Lacking proper evidence, he could only take the couple's word for it, trying to confirm this by going through the mammoth 1930s cadastre on which he bases his work (and which is far from up-to-date with the 1959 land situation).

Then there are problems emerging from the village or commune land commission's failure to apply the law properly--in other words, from abuse of power (to be further discussed below). The mayor, vice-mayor and others often suppress information about property in prime fields, which they work for their own benefit. This usurpation of course diminishes the area available for distribution to villagers rightfully owed land. People whose complicated claims the land commission might resolve by giving them land in these prime fields will have to receive something else instead. In Vlaicu, some have been given rights to work pieces of land in the state farm. But the farm itself is supposed to be working that piece, along with others, for profits to pay rightful shareholders. So the authorities are trying to make a single surface area count twice: someone actually works it, withdrawing it from the state farm's use, while the mayor orders the state farm director to pay dividends to the original owner, whose claim has been doubled without being annulled.

But in many cases, not even the commission members know what is going on. Traipsing around in the fields one day with the mayor, topographer, agronomist and a village land commission member, I was startled to hear them asking one another, "Who's working this piece?" "Who gave out this piece to these guys?" "Whose is this?"--and not knowing most of the answers. One or another of them would ask the question of someone working in a field and receive the answer, "I don't know." Finally someone commented, "We could spend all our time just trying to figure out who's occupied these lands. We'd have to camp out every night as well as sit all day watching who comes where." It was clear that in this highly confusing part of the village perimeter (its border with Gelmar), no one is fully in control.

****The Mechanics of Restitution****

There are also confusions stemming from the sources used to determine people's allotments. Claims were to rest on two recorded amounts: that dating from enrolment in the collective, and that in the 1959 Agricultural Register. Both had been based on self-declaration, not on official property records; it often happens that neither amount conforms with the others or with entries in the 1930s cadastre that the topographer uses to distribute land. As I explained above, people had reasons to underdeclare the land recorded in the Agricultural Register. Similarly unreliable are the amounts that people declared when joining the collective, after an often-lengthy process of coercion and intimidation. In the words of a friend, "By the time they finally wore you down so you joined, you didn't give a fat damn what amounts you wrote on that paper." The two sources for making claims therefore do not necessarily reflect what a family owned in the past--and if the persons who offered those declarations have died, their heirs may not even know what they had. A woman who helped draw up Vlaicu's list of property allotments clarified for me the magnitude of the problem. Asked what she found most difficult about the job, she replied, "Adding up all the claims and discovering an enormous gap between that figure and the area we had available."

Three possibilities are open to villagers wishing to contest the amounts awarded them. Two witnesses may declare under oath that they had a different amount. Or the claimant may present documents of past sale or donation, made with witnesses, if they are still alive to verify their assertions. Since many people threw away such documents, the latter is an option available to few. Or people can present evidence from the Land Register to contradict figures in other sources. But to get evidence from the Land Registry office, one must have the topographic numbers of all the parcels in question, and many people lost these numbers, thinking they would never be needed again. A person for whom none of these three options is viable need not give up: imposing oneself by force is a common enough alternative.

Problems arise too from villagers' failure to comprehend the legal niceties of the process of impropriation. Many cannot fathom why their right to land no longer exists just because they did not register their claim within the prescribed time limit in spring 1991. The law set 30 days as the initial period for registering claims, then extended it to 45. Anyone wishing to claim property was obliged to act within that limit or, if they did not, their rights automatically became invalid at the end of it. Villagers are understandably befuddled that a right valid yesterday is invalid today, and they continue to pester the commission with their claims.

Myriad difficulties result from the fact that Law 18 reconstitutes holdings as they existed in 1959. The members of the land commission state plainly that their job is to recreate the grid of property as of collectivization, not to resolve inheritance disputes, which have to be handled through the courts. But one cannot go to court without a property deed, and those are being given out with much delay. As of June 1994, 24 percent of the expected landowners in Romania had received their property deeds. Somewhere around a half million court cases over land are already pending and more can be expected with each increment in the percentage of deeds given out. Other complications lie in divergences between customary and official law--e.g. the custom that old people might give their land to those who took care of them, rather than to kin whom the law would recognize as heirs. Compounding the problem, as I discovered by sitting in court and in the notary's office, is that from 1959 on, many people did not bother to legalize succession after a death, seeing no reason to do so once there was no land to inherit. Thus, one now encounters quarrels among siblings and cousins over an estate that has been transmitted through up to two intervening generations without its division being legalized. Customary understandings among heirs may well clash with provisions of the law, yet those whose preferences would have clarified the matter have died intestate.

Meanwhile, kinsmen squabble with one another over division of the holding to which they have inherited rights. They might reach a provisional agreement out of court but then be unable to enforce it among themselves, turning to the commission for a verdict. These discussions, like so many others, are filled with shouting--"It's *mine*," "No, it's *mine*"--and threats of violence--"If I go and plow where I think I belong, my uncle will bash my head in." Most villagers I spoke with do not comprehend that the commission has no power to settle inheritance disputes but can only reconstitute 1959 holdings. When the commission refers people to the courts, they assume that "the commission doesn't want to help us, they're corrupt and are using the land for themselves," or "if you don't pay them off you can't get anywhere."

The principle that "as a rule," people should receive exactly the parcels they had owned prior to 1959 is yet another source of problems and delays in distributing land. It precludes consolidating parcels and decreasing the number of them to be both measured and worked. It also prevents the commission from creating viable new parcels by means of the reduction coefficient. In Vlaicu, initial calculations indicated that a nine-percent diminution of all reconstituted properties would yield enough land for everyone. But in the first provisional measurements, the commission did not subtract this percentage, because (they say) people would then complain about not being on their former sites. Since farms are composed of multiple parcels of .07 to 3.65 hectares in size, most of them less than a hectare, the commission's proposal to apply the nine-percent reduction at this point will yield tiny fragments to redistribute. Had the commission consolidated village holdings at the outset, the nine-percent reduction would have made viable parcels for many more people.

Further difficulties come from the absence of pre-existing physical markers. I heard countless arguments of the following sort. X and Y are arguing where Y's land should be: "It was in Big Floodplain field." "No, it was in Small Floodplain." "It was two hectares." "No, it wasn't hectares, we didn't use hectares back then: it was two *yokes*." "At the end of the parcel were some trees." "No, there were two paths there, the trees were over here, you were over there." "Your father's land came down from the Vinerea Road right to..." "Which road? Not that one but another. But where were the trees?" "You didn't have land there! Ion's Maria was there, and Avram's son Lazar and Lame Stefan, but not you guys." "Well, but we bought it by a secret agreement." "The mistake is that you used

the *new* road as your point of reference but the topographer used the *old* one [now plowed over] when he measured for you the first time." In this fashion people might dredge up, manufacture and contest knowledge for hours and months at a stretch.

From the collective's effacement of the land's individuality, then, comes decollectivization as a war of knowledge and memory. An anecdote from a village elsewhere in Transylvania reveals this starkly. In that village, at the time of collectivization villagers got together and buried large rocks deep beneath the surface at the boundaries between fields--deep enough to be out of reach of the collective's large tractors. Property restitution there is now simplified, as people have only to dig for the stones where they think the boundary should be. The materiality and ease of this uncommon practice confirm that the ghosts of an earlier property regime flutter above the landscape, haunting the recollections of those who strive to recover their rights.

****Superimposed Ownership****

As it turns out, no amount of elasticity could have stretched Vlaicu's land enough to satisfy all claims. The reason is Vlaicu's ethnic Germans, whose ancestors had settled in Vlaicu in the 1890s. They formed 15-20 percent of the village population until the 1970s; by 1993, however, they comprised a mere 3 percent--25 resident individuals in 12 households. Once the richest group in the village, the Germans were expropriated of nearly all their land in the 1945 land reform, which awarded it to poor Romanian villagers and war veterans. It was those Romanian proprietors who gave the land to the collective and it is they who in 1991 received it back. The Germans, in turn, received not land but shares in the state farm. But since they had had no land in what is now the state farm, they challenged the decision in court--and won. The commune commission awoke to a court order awarding the Germans 70 hectares; as they had requested, the land was given in a single block so they could work it in common. With most of the village land already distributed, the commission had now to come up with 70 additional hectares. No matter how elastic the surface, it cannot stretch that far. Problems involving such double proprietorship--and the expectation that commissions will somehow resolve them with double the surface area in question--are not common in Transylvania, but where they exist they show clearly the lengths to which local commissions have to go in treating land as not a fixed but a flexible good.

Vlaicu's "German problem" has augmented the already numerous sources of social tension and conflict. It fans the resentment of immigrant Vlaiceni, whose chances at land receded with the effort to unearth 70 more hectares for Germans. Moreover, the commission was dilatory in finding alternative parcels for the Romanians thrown off these 70 hectares. Many were angry and some even broke into those fields by force, resulting in a court case and much ill will. The issue has not generated a full-blown ethnic conflict only because Romanian Vlaiceni are divided on who should rightfully have the land. While the lines of cleavage are complex, they tend to divide those who formerly had little land in the village (one reason for their receiving some in the reform of 1945) from those who had more--that is, they reanimate an earlier class division, as well as exacerbating a new one.

From this discussion, it is easy to see why final property deeds might be slow in coming. If one adds the government's suspected footdragging, the delays are even more understandable. President Iliescu has made no secret of his disdain for inefficient, private smallholding. His views doubtless influence those local officials charged with implementing Law 18, especially if they are of his party. Moreover, if Cornea is correct, the power of the "directocracy" that has run Romania up to 1994 rests on preserving the juxtaposition of private and state property by keeping private property rights uncertain. This enables *entrepratchiks* to siphon state resources into their new private firms as they continue to obfuscate ownership claims of all kinds, including those to land. Against this sort of interest, villagers hoping to gain full property rights must engage not only in local wars of knowledge and local power struggles from which a new property grid will be forged, but also in higher-level battles over who will define Romania's future.

THE POLITICS OF ELASTICITY

Amid all the uncertainty, some (mostly vigorous men) seek to impose their rights by force: they simply plow into their neighbor's land. Neighbors appeal in vain to the commission, for it almost never exercises the limited sanctioning power it has (fining the usurper and threatening to sue him). One reason is that the commission's village members are reluctant to harm their relations with fellow villagers. Indeed, that commission activity is often indecisive stems from these members' unwillingness to resolve problem cases, which would inevitably alienate some people with whom they have to live. Commission members from outside generally lack the knowledge to resolve local cases and the local members do not wish to apply the knowledge they have--if indeed they can agree on what it is. And so, as the agronomist from Geoagiu explained to me, the role of the outside members is to invoke abstract notions like "the rule of law" as a basis for decisions, hoping thereby to blunt the enmity of villagers toward the commission's local members. The outsiders also serve as scapegoats: the local members, as well as other villagers, routinely accuse the outside members of abuse of power and of corrupting or retarding the process of property restitution.

It is the local and commune commissions that enact most of the politics of elasticity--that look for hidden land, hide land themselves and stuff claimants into the rubber sack of the state farm corporation, adjudicate among competing claims from past exchanges, profit from ambiguities in the distinctions between remnant state property and the property of disbanded collectives, and have to cope somehow when the limits of elasticity are reached, as with Vlaicu's Germans. It is commission members who can take advantage of the skewed distribution of knowledge about past property. They can influence a decision by suddenly "remembering" that X never had land in the field whose ownership Y is contesting with him, and they can occupy lands (rather than pool them for redistribution) because they know where there are fields that no one (or no one important) is claiming. If it is they whom irate villagers most often accuse of corrupting the process of decollectivization, the reason is that they have the best chance to do so. The transformation of land in Romania parallels the transformation of Soviet-style socialism overall in that the most valuable asset is political capital: a position of authority and accompanying connections can be used to acquire economic resources. Few people in such a position would fail to take advantage of it.

****Local-level "Abuse of Power"****

Precisely because of who its perpetrators are, stories about local-level abuse of power are difficult if not impossible to verify. Abuse occurs on a sufficiently wide scale to prompt the Hunedoara county prefect, for instance, to call meetings of all the commune mayors to discuss the problem. Newspapers are also full of stories about officials who deprive others of property rights. I offer the following examples from my conversations and from TV mainly to illustrate what might be going on; I cannot verify the events. One concerns a certain commune secretary, a man who had for years controlled the commune archive. As of spring 1994 he was on seemingly permanent sick leave, the result of someone's having discovered a false entry in the commune land records that gave his family more land than they had owned, in a better location. He was reputed to have done this for friends and kin, and the evidence was sufficient to get him "pensioned" (but not punished otherwise, thanks to his cozy relations with influential people--a pattern familiar from before). A second example involves a vice-mayor. A villager whose old aunt had asked him to plow her land with his tractor wanted her to show him where it was. When they reached the place--of which she was absolutely certain--they found it already plowed and planted. Inquiring of others in the vicinity, they learned that this was the work of the vice-mayor (a man who, not being born locally, would have no right to land anywhere in that commune). The nephew's requests that the land commission clarify things by measuring his aunt's parcel fell on deaf ears for three successive agricultural seasons; he was finally given to understand that in this area of the village things would not be clarified. The third example comes from an inspector called into a village to investigate a complaint against the mayor and the state farm director. Villagers wanting their lands back had sued this IAS (which stood on lands earlier exchanged with the CAP), had received a judicial sentence ordering the IAS to move back to its initial location, and had then plowed and planted their fields. No sooner had new shoots sprouted than the IAS plowed them under, planting its own crops instead. When villagers objected, police beat

them up and arrested them--even though their protest stood on a legal decision. The inspector concluded his account by noting that the IAS director could only have been in league with the mayor (neither had shown up for the hearing), for only local authorities can summon the police against local citizens. He also observed that, while villagers were being thus abused, the IAS director had just built a large villa with the proceeds from their land.

It is not just people like mayors and their deputies who are thought to abuse their offices: villagers most frequently accuse village members of land commissions. In their role as arbiters of property restitution, they can use inside knowledge to acquire for themselves inheritances to which less knowledgeable others might have a better claim. They can favor their own kin in any dispute--indeed, Vlaiceni ousted one of their members from the commission because he was doing this so blatantly. In order to get more land, village commission members can collude among themselves or with others from the commune commission. Even without any overt wrongdoing, they can promote their interests simply by pressing the topographer, mayor and other non-village members to resolve their situation, and in a specific way. Outside members depend on village members too much to be indifferent to these requests. Although membership of a commission does not guarantee that one will resolve all problems to one's advantage, it is certainly no hindrance.

"Corruption" and abuse of power are nothing new in Romania. Talk about local officials abusing their power occurs in a political context that should make us pause, however, in assessing the stories' veracity. The fall of the Communist Party destroyed the hierarchical chain that had connected the political center with the lowest levels of the system. Whereas the governing party or coalition appoints county prefects and can count on their political loyalty, town and commune mayors are elected by their constituents; many of them, especially in Transylvania, are not of the governing party. Their autonomy thwarts government attempts to recentralize and to obstruct local-level control. Underlying talk about "local-level abuse of power," then, may be a struggle over political (re)centralization and local autonomy. If local-level abuses can be made to appear sufficiently rampant, they might justify the center's recreating hierarchy and surveillance. That abuses undeniably do occur openly, in any case, indicates either the center's collusion or its ineffectual control over its subordinates--or both. It colludes because it cannot control them, precisely because it can no longer offer them protection and benefits adequate to securing their allegiance. If local officials abuse their positions of power, the reason is that they can line their pockets only through their own actions, not through collaborating in the hierarchical system of privilege that served them before.

Talk about local-level abuse of power in implementing Law 18 therefore reflects, in my opinion, both a political struggle to reconstitute central control and the realities of life in the countryside. Abuse does occur, but not necessarily on the scale of the allegations. Moreover, most people cheated of their property rights have no idea whatsoever how to defend themselves. An acquaintance of mine, a woman with long political experience, described the extraordinary lengths to which she had gone to prove her ownership of a piece of land. Without the influence afforded her by past political connections, she said, she would never have managed to get what was rightfully hers--and even so, she had to give some of it away to obtain the rest. Backdoor access to the Land Registers, friendly advice from lawyers and state prosecutors, a relative on the land commission who told her confidentially what she would need in order to prove her case ... most villagers do not have these resources, nor the time or cash to make countless trips to the county capital in pursuit of proofs. Officials who defraud others of property thus have a good chance of turning their usurpation into ownership.

****Who Loses and Who Gains?****

At whose expense, one might ask, do excessive claims and forcible or fraudulent occupation shrink the available land? In addition to the village poor and the immigrants mentioned above, two other groups are worth singling out for comment: widows and urbanites. When a land commission has to resolve a dispute or when a (male) villager wants to expand the field he is plowing, the most likely victims are widows. Presumed to

be defenseless against these usurpations, widows are--and perceive themselves to be--a favorite target. In my second example above, that the land the vice-mayor has reportedly occupied belongs to an old widow is no coincidence. I saw good evidence that widows feel it useless to resist these usurpations because they will never prevail. One widow, discussing how a relative had usurped a field belonging to her widowed aunt, said, "Where there's no man, people who are stronger or have sons will shove themselves on you by force, and you can't do anything about it." Another said, even more revealingly, as she explained how her neighbor had occupied a large chunk of her garden: "My son kept telling me not to give up but I gave up. I used to have proof of ownership, but I threw it in the fire--never thought I'd need it again. I'm a woman! I gave up. I should be more manly--some women are more manly. But I always place my hopes in someone else."

The other particularly vulnerable group is comprised of people who have acquired rights to land in villages where they no longer live. Nearly every urban intellectual in my circle of friends had long stories to tell of how they had been excluded from rights to land or been paid a pittance for its use if they gave it to their village association. Many urbanites live far from their places of birth; they have neither time nor money for frequent trips back home to defend their claims, before the commission or in court. It is easy for local officials to tell them that their land falls, say, in the "fishpond" (a state farm that pays almost no dividends because it is bankrupt), while the same officials work the land themselves and pocket the proceeds. It is equally easy for people who run the associations to underpay long-distance members. The travails of city people show us, then, that in deciding to accept all property claims regardless of the owner's place of residence, the Romanian parliament delivered to local authorities the means of considerable enrichment.

In sum, my evidence suggests that the chief losers in decollectivization are widows, people in cities, immigrants and some of the former village poor. In each of these groups some people stand out for their determination to fight--something not all villagers do--for what they see as their rights. The people who tend to gain are local politicians, others associated with implementing the return of property and some of the old village elite. Because the situations of current losers had improved under socialism while the village elite had suffered, property restitution would seem to be restoring an earlier set of inequalities. This is not so, however, for the chief beneficiaries of the present conjuncture are the holders of political capital--many of whom also held it during the socialist period. In the unfolding class reconfiguration, their advantages not only afford them resources for high position at others' expense but also feed conflicts and resentments among those less favored, who confront the limits of elasticity and strive to escape them.

****Strategies of Justification****

When land no longer stretches to accommodate people, how do they defend their claims? What are villagers' strategies of justification in asserting their rights? In other words, What ideologies of ownership are (re)emerging? Because my data on this question are too extensive to present here, I will only summarize my conclusions from them. First, for nearly all Vlaieni, the criteria that matter in validating landownership are entitlement and desert (rather than some criterion such as efficiency). There are varying definitions, however, as to what makes people entitled. Some--chiefly those who had no land before--emphasize equity and fairness; others emphasize past suffering. Especially with respect to the claims of other ethnic groups, villagers legitimize their own claims by invoking the law, state authority or patriotic values as grounds for desert.

By far the most common vehicles for legitimating possession, however, are kinship (or blood) and work: people deserve land because it belonged to their ancestors, because they or their parents worked it, because even if their parents had no land they worked in the collective, or because they are better able than others to work land now and in the future. They fight for their land, many of them say, because they owe this to their parents, who worked so hard for the land and lost it all. Although it might seem that ideas about labor derive from socialism's emphases on work and production, I believe they have an additional source in pre-1959 notions about personhood as something

constructed through labor and possession. (Lampland illustrates these notions beautifully in her book on Hungarian peasants, and I believe they make good sense for the Transylvanian peasantry as well.) An important corollary of this justification through labor is that it posits social persons defined *by their effort*, persons who gain identity as possessors because they *act*. Tying this to kinship extends their "personhood" backward in time (to the labor of ancestors) as well as outward in social space, thus producing significantly different bases for social identity from those available under socialism.

Depending on one's interlocutor, one might invoke either kinship or work situationally--that is, these justifications are not tied to specific social groups. They are, rather, ideological premises available to all. The partisans of kinship (mostly people whose parents owned land) are also sometimes partisans of work (their parents deserved land because they worked for it). If the immigrants who labored in the CAP tend to be partisans of work more than of kinship, it is because they rarely have a claim they might justify by blood--but when they can, they do. Otherwise, they bolster work arguments with arguments of equity. Whether kinship and work are combined or in tension, all recognize them as significant grounds for a claim. Finally, although Germans tend somewhat more than others to legitimate by reference to law and state authority, kinship and work are as important to them as to their Romanian neighbors. They claim to deserve their 70 hectares because they had the land from their ancestors, who had sweated to obtain it. And many of the Romanians agree.

These findings warrant three comments regarding the ideological processes they imply. First, as collectivization aimed to delegitimize family-based owning and laboring units, decollectivization now relegitimizes them--even if the "family" invoked is spatially dispersed across villages and towns. Thus, property restitution entails reinforcing a kinship ideology, promoted by those whose kin had property. This is an ideology honored less in the observance than in the breach, as is clear from the many quarrels among kin; but it is a potent addition to the new (renewed) class struggle emerging in Transylvania's villages. Second, an ideology of kinship and ancestry necessarily invokes the past. Against socialism's relentless orientation to the future, many people now define themselves by where they have come from: they are possessors because their ancestors were. To the extent that Romanian socialism honored the past, it was a past dominated not by kinship but by the nation and its march toward communism. Those who 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. And third, the recrudescence of kinship provides an ideological counterweight to the atomizations of both the socialist period and the conflict-ridden present. It promotes ideas of personhood that extend the individual and his or her work both socially and temporally. Although these expanded self-definitions will not be available to everyone, they diversify the social landscape with potential foci of action and resistance larger than the individual farming household.

CONCLUSIONS

Because property restitution has been proceeding for only a few years, to draw conclusions about its effects at this point would be rash. I can at best open a few windows onto its possible significance. Let me suggest three areas for which it has implications, both for social processes and for any comparison with other times and places: post-socialist rationalization, an ideology of rights tied to individuation, and changes in state power.

To restore private landed property across the former socialist bloc means to (re)construct a rationalized landscape different from that of the socialist period, a more individuated, more particularized grid. While socialism did not completely demolish such a grid, the one it created had different dimensions and was based on different socio-geographic distinctions from what is taking shape now. The significant categories of the socialist landscape were state vs. collective lands and socialist vs. private farming; villages were no longer treated as the strongly bounded entities of before but saw their edges violated by border-defying state farms and exchanges of land. Rationalizing a landscape from this base is not the same as the modernizing rationalizations of early capitalism. It creates different balances of power, different resources for influencing this balance, different

political subjectivities, different forms of justifying enclosure and proprietorship, and different trajectories for social ideology.

The agents of Transylvania's new grid operate in odd intersections of political force. They are, first, those individual village owners who insist--in land commission meetings, in public speech and if necessary in court--on respect for their property rights. To insist on the return of their *original parcel* has become for these people a way of opposing the usurpation of their rights, by other villagers and especially by commune officials and others based in the state agricultural sector, who all want land but might have difficulty mustering the necessary proofs except through fraud. Even those officials who hoard knowledge and exclude measurement from fields they have selected as their own do not reject a grid of ownership: their abuse can be transformed into a right only if a property grid is firmly established. Additional agents of rationalization are the village associations, pressing for certainty so as to proceed with their work. A rationalizing impulse that began, then, in the prison cells of members of the historical parties and spread across Romania through political activity in the national arena is being pushed to conclusion by local struggles and localized wars of knowledge. The specificity of these processes should inform any comparison with the rationalizations of capitalist modernity.

Similarly comparable yet different is the discourse of rights underpinning these local struggles. As people fight their battles, defending their claims against one another and against local officials, they reinforce an ideology of rights. Over and over I heard people say, "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. Their sense of entitlement is now in the service of a demand for rights. Socialism too guaranteed rights, though not to property. One might say that socialism had made villagers 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, villagers may now be *actively making themselves* into the bearers of rights. Whether they are doing so in some relation to legal procedures and guarantees 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.

In defending their rights to land, Transylvanians participate in a process of individuation (not to say atomization) that erodes the solidarities--such as they were--of socialism's "us" vs. "them." People who formerly cooperated have been pitted against one another; conflict divides cousins and siblings; neighbors who have gotten on well for decades no longer speak, owing to conflicts over the borders of their gardens. Through their arguments individual parcels will materialize from an unindividuated landscape, parcels bounded by newly planted saplings and by the whimsical markers people have contrived--a beer can on a stake, a blue plastic bag tied to a tree. The process of obtaining property deeds for these parcels will further individuate, for siblings who figure as joint heirs to a given set of holdings must seek a legal division in order to get permanent title. (Along with these separately owned parcels may come impediments to the collectivism that still pervades the consciousness of even those who think themselves thoroughly anti-communist.) Nonetheless, if the emerging ideology of kinship gains purchase, the "atoms" of this process may be not individuals per se but families and networks of kin, howsoever constricted by quarrels over land.

Finally, the struggles of property restitution contribute to transforming Romanian politics and state power. The events of 1989 dealt a severe blow to the centralized Romanian party-state, an effect that extensive privatization should only enhance. Will those now in power succeed in reversing this trend? Will the conditions they create in agriculture favor collective actors--state farms, *Agromecs* (successors to the old machinery parks) and associations--at the expense of individuals struggling for land? And will those collective actors find themselves beholden to the state rather than independent of it? Will the legal battles of would-be owners prove a means of reconstructing the state's power through an ideology of "the rule of law"? If the present rulers can obstruct the separation of powers (as they have to date), we can expect precisely this outcome: the struggle for individual

possession will fortify the political center via its control of the courts. Local-level management of property restitution has comparable 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 would impede recentralization of the state and would further local self-government. But if, instead, they become embroiled in infighting and corruption, squandering their independence and enabling the state to intercede, reconstituted state power will be the result. The implications of local struggles over land thus ramify far beyond the villages: they affect not only villagers' self-conceptions and social relations but the state's very capacity to dominate them in the future.

"Property reconstitution," a topographer said to me, "is like trying to reproduce an entire painting when you have only half of it." He might have added that the task is even more difficult if the canvas will not stay still. Property restitution in Transylvania involves pushing and pulling the canvas and much argument as to what the painting is supposed to look like. Not all those entitled to property join the fray, but those who do are affecting the most basic conditions of their lives as they strive to twist the canvas to their advantage and then tack it in place. Whether Transylvania's landscapes will gradually cease to stretch, accepting the girdle of private possession, in what forms landed property will come to be both thought and worked, who will work it, and within what field of power--these hang in the balance.

by Katherine Verdery

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