

**Land as asset, land as liability:  
property politics in rural Central and Eastern Europe**

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## **Abstract**

Postsocialist land reforms have given many people in Central and Eastern Europe private property rights to land. What is less known, the rights have come along with obligations imposed on the new land owners. The particular concern in this paper is with the obligations enacted for the sake of environmental protection. The paper examines how land owners and agricultural producers have reacted to environmental obligations by way of case studies on biodiversity conservation in the Czech Republic and the preservation of open space in Poland. The case results suggest that the land management practices employed by agricultural producers largely ignore the applicable obligations. The producers define obligations away from the newly received rights, invoking the social values of historical justice and rural development to counter the environmental goals. They ignore and oppose the environmental obligations because those threaten to diminish the material and symbolic values derived from land ownership and may even turn land from an asset into a liability. People's land use practices, therefore, rework rural property relations, producing new sets of environmental regulation that eventually find recognition in property legislation.

Postsocialist land reforms have offered many people in Central and Eastern Europe the opportunity to become land owners. People have readily seized on the opportunity, lodging formal claims on land. They expend significant effort to recoup historical land holdings, acquire new parcels, and influence land privatization processes. They invoke various social and moral values to justify their claims on land against competing claims, to influence allocation procedures, and to win court cases. Once they have received land titles, they struggle to translate the newly acquired legal rights into practice, fighting the constraints on machinery services, input supplies, output marketing, and land markets. People expend all this effort because they consider land an important asset, for the material and symbolic values derived from land ownership.

Yet land ownership has also brought along various legal obligations, to which the new land owners are held responsible. Land titles carry not only rights but also obligations for the new owners. My particular concern in this paper is with the obligations originating from concerns for environmental protection. Environmental concerns have found their way into land legislation, because agriculture influences the rural environment in many ways. Agricultural practices not only produce food and fiber but also condition the rural environment. Agriculture shapes cultural landscapes and modifies the distribution of valuable flora and fauna, to name just two environmental amenities affected by agricultural practices. In consequence, postsocialist reforms tie people's newly acquired rights on agricultural land to the general obligation to preserve valuable environmental amenities.<sup>1</sup>

Central and Eastern European governments have chosen a regulatory approach to put the environmental obligations of land owners into practice (Howarth 1998, Sikor 2004). They subject land owners to specific duties and restrict their options in land management in order to protect the rural environment. Specialized government units, often the agricultural agencies, set environmental standards to be met by agricultural producers. The units also have the mandate to enforce the standards through a variety of measures, including penalties for environmental offenses. For example, agricultural agencies may require producers to perform certain land management practices for the protection of valuable flora. The producers face the threat of penalties if their practices do not comply with the regulations. Regulation, therefore, has become the primary mode of environmental protection in agriculture.

In this paper, I take a closer look at rural property relations in Central and Eastern Europe to understand how environmental regulation has played out in practice. By property, I refer to the 'bundle of rights and obligations' associated with an object (Benda-Beckmann et al. 2004). I speak of a 'bundle of rights and obligations' to reflect the many kinds of relationships concerning land and its use. In agriculture in particular, it is important to employ such a nuanced notion of landed property, because of the many functions of agricultural land use. For example, agriculture in a particular region may not only produce a range of agricultural crops, but also contribute to clean drinking water, provide habitats for endangered bird species, maintain the cultural landscape, and absorb atmospheric CO<sub>2</sub>. The specific practices employed by agricultural producers determine the contributions of agriculture to these multiple functions. Seemingly minor changes in land management practices can have significant impacts on the rural environment. Agricultural practices, therefore, continuously redefine the contributions of agriculture to environmental protection. Correspondingly, environmental regulations include a long series of very concrete and detailed duties and restrictions in land management.

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<sup>1</sup> My discussion here simplifies and homogenizes legislation that is much more complex and variable in practice. Yet I expect this condensed discussion to be useful for clarifying more general problems involved in the implementation of environmental legislation, the purpose of this paper.

I use this framework to examine two empirical cases from the Czech Republic and Poland. The cases deal with typical rural environmental problems in the region: biodiversity conservation and protection of peri-urban open space. Farmers in both cases not only produce marketable products but also provide environmental amenities. The case studies provide valuable insights into the dynamics of rural property at three of the four 'layers' delineated by Benda-Beckmann et al. (2004): the material and symbolic reactions of local actors to legal obligations as manifested in concrete agricultural practices; the dynamics of actual property relations, with particular attention to the obligations connected with land rights; and, changes in environmental regulations applicable to agriculture. In fact, the cases suggest that people's reactions to environmental regulations not only re-work actual property relations but also produce emerging new sets of regulation different from those originally legislated.

The paper begins with a review of the literature on postsocialist property relations in Central and Eastern Europe. The literature review helps me identify three concrete questions that guide the subsequent analysis of the two empirical cases. The case analyses inform a more general discussion of land management practices, rural property relations, and environmental regulation. The paper concludes with alternative interpretations of the observed property dynamics.

### **Land as a postsocialist asset**

What emerges from the literature on postsocialist property is a general consensus that actual property relations are significantly different from legislation. They have been different from the outset of land reforms due to the negotiation of legal procedures at the local level (Verdery 1996: 159-64, 1998; Kaneff 1998; de Waal 1995; Hann 1996). Political struggles accompany the restitution and distribution of legal land titles among various social actors. Villagers, village communities, urban residents, agricultural managers, ethnic groups, and entrepreneurs compete with each other about control over land. Local negotiation results in distributions of land titles that deviate from those envisioned in legal texts, as broader political and social relations shape actual property relations.

Variation in the distribution of land titles is associated with the existence of multiple justifications for claims on land, or "ideologies of land ownership" (Verdery 1996: 163). People motivate claims on land by asserting the primacy of individual entitlement and desert, historical justice and kinship, collective work and entitlement, or the efficiency of 'the market'. These justifications go much beyond narrow notions of land ownership. People react to the notions of private property, small-holder agriculture, and capitalist individualism embedded in property reforms by asserting competing values associated with land, production, and entitlement (Verdery 1998: 166; 1999: 65-75; Giordano and Kostova 2002: 75, 79; Lampland 2002: 41). For example, Bulgarian and Russian villagers contest the notion of land as a source of individual wealth by emphasizing the importance of land as a source for communal funds, basis for collective enterprise, and resource to feed the local population (Humphrey 1995: 45; Kaneff 1995: 32, 1996: 111; Hivon 1998: 48). Romanian villagers assert a collective entitlement to a granary built by them under socialist agriculture (Verdery 1998: 166; 1999: 65-75). Elderly Hungarian villagers display a strong emotional attachment to particular plots, as a way to re-establish identities and conserve family bonds (Hann 1993: 310, 313).

As a result, not only is the distribution of legal titles different from legal provisions, but the new rights are often limited in practice. Serious contextual constraints limit the exercise of land rights, beginning with practical problems encountered in identifying the location of one's land (Verdery 1998: 163-5). Once people have identified their land, they face

tremendous problems to turn their legal rights into tangible economic benefits. Agricultural producers have difficulty to access the necessary machinery, obtain agricultural credit, and purchase inputs (Verdery 1998: 173-8, 1999: 59-65; Zbierski-Salameh 1999: 194-8). They encounter product markets controlled by a few buyers and urban speculators (Zbierski-Salameh 1999: 198-202; Giordano and Kostova 2002: 87-8). The sale of land is often not an attractive option either, as land legislation prohibits sales to outsiders and constrains demands for land in other ways (Hann 1996: 36). Many small-holders, therefore, have little choice but leasing out their land to various types of agricultural associations and private entrepreneurs, in return for meager lease payments (Verdery 1999; Giordano and Kostova 2002: 82). These constraints let Hann conclude that

*"there are many persons and families in Hungary today for whom the current rhetoric about widening choice and extending property rights must seem a sick joke: [...] they cannot become entrepreneurial farmers because they lack the basic capital resources, and their social rights are being whittled away all the time."* (Hann 1993: 313)

The local agents of postsocialist governments play an active role in the negotiation of property. They staff the privatization and liquidation councils that are in charge of privatizing land and other assets at the local level. They seek to bend the decisions of those councils in favor of their own personal interests, the directives sent down by the central government, and the interests of various social actors. For example, accusations of power abuses by members of the councils are numerous in the Romanian village studied by Verdery (1996: 160-1). Villagers in Bulgaria resent the control exerted by the central government over the councils and their decisions (Kaneff 1996: 89-92). A liquidation council in Romania bends the rules to auction a collective granary off to the successor organization of the agricultural cooperative (Verdery 1999: 65-75). Local government agents also play an active role in land relations after the initial privatization. In Albania's mountains, local officials look away from apparent discrepancies between actual land relations and the legislation in case of agricultural land, but try to enforce legal regulations over forests (de Waal 2004). In the lowlands, Albanian officials display little interest in settling land conflicts, as the promise for permanent resolution and land titles is a useful tactic in election campaigns (ibid.). Finally, local government officials may decide to go private, utilizing their skills and networks developed under socialism for private ventures (Humphrey 1995: 56; Giordano and Kostova 2002: 82-86; Lampland 2002: 43-4).

David Stark (1996) suggests an additional dimension to the politics of property in postsocialist Central and Eastern Europe. The political struggles are not confined to negotiations about the rights to property objects, but they also extend to associated obligations. Stark finds "recombinant property" in Hungarian industry, 'recombinant' in the sense that the privatized property objects present new combinations of rights and obligations. Just as described above for rural areas, local negotiations shape the distribution of assets under Hungary's enterprise restructuring program. The negotiations do not terminate at the question about who gets what object, however. Industrial managers negotiate the very nature of the objects to be privatized, as they combine rights and obligations in surprising new ways. They are quite successful in separating control over assets (buildings, machines, etc.) from responsibilities for liabilities (primarily financial debts). By this process the managers succeed to push the responsibilities onto the central state, turning private into government obligations. The managers' actions define obligations away from rights, constructing the assets to be privatized. The nature of property objects as assets or liabilities, therefore, is not given but established during the privatization process. Managers' practices shape actual property relations in Hungarian industry, with national policy eventually following suit and legalizing the changed property situation.

In the following analysis, I want to use Stark's insights to examine how rural people have reacted to environmental obligations. Stark's attention to rights *and* obligations appears useful for my purposes, because land is the object of multiple rights and obligations. Some of these obligations originate from environmental regulations, making agricultural producers liable for 'environmental debts' similar to the financial debts afflicting Hungarian industry. My inquiry, therefore, is guided by three questions. First, how do agricultural practices comply with the obligations imposed by environmental regulations? Or, in other words, are agricultural producers able to circumvent environmental obligations? Second, to what degree do land owners and agricultural producers share the environmental concerns motivating the obligations? What values do local people invoke in addition or in opposition to environmental protection? And third, what role do postsocialist governments play in the negotiation of environmental obligations? Do local officials implement and enforce the regulations enacted by national governments?

### **The cases**

I examine these questions through two case studies from contemporary Central and Eastern Europe, one on biodiversity conservation in the Czech Republic and the other one on the preservation of open space in Poland. The cases are chosen to facilitate insights into the social dynamics underlying common environmental problems in rural Central and Eastern Europe (Sikor 2004). I begin with the Czech case, as it nicely illustrates the symbolic struggles that accompany the implementation of environmental regulation.<sup>2</sup>

#### Biodiversity conservation in *Bilé Karpaty*, Czech Republic

Extensive livestock husbandry has nurtured rare orchid species in the White Carpathians for centuries.<sup>3</sup> To preserve the orchids, the Czech government established the Protected Landscape Area *Bilé Karpaty* in 1980. In the early 1990s, land in and around the Protected Landscape Area was restituted to its historical owners and their heirs. Thousands of small land owners received legal titles to often miniscule plots. The titles granted them ownership rights over the land, but the 1992 Law on the Protection of Agricultural Land also obliged them to follow good agricultural practice, in particular 'proper' grassland management. The administration of the Protected Landscape Area translated that to mean that agricultural producers in the core zone did not have the permission to intensify grassland management by use of chemical fertilizers and pesticides. Neither did the administration allow them to abandon the management of the meadows. Land owners, or their tenants, had to perform the practices needed to prevent encroachment by bushes.<sup>4</sup>

Yet local land owners and producers showed little inclination to follow the regulations imposed by the park administration. In the 1990s, many producers ignored the obligation to perform 'proper' grassland management, applying chemical fertilizers and neglecting the duty to mow the meadows at certain times. A few land owners even abandoned agricultural

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<sup>2</sup> I want to stress the exploratory nature of the research. There are obvious limitations to the research, above all the scant attention paid to the historical antecedents of contemporary property relations and social actors' concrete strategies and motivations. Yet I surmise that the evidence presented here highlights important dynamics of property in rural Central and Eastern Europe.

<sup>3</sup> See Ratering et al. (2003) and Ratering and Krumalova (forthcoming) for more detailed discussions of this case.

<sup>4</sup> Land restitution has led to a busy reorganization of land holdings in *Bilé Karpaty*, as many land owners have rented the newly acquired plots to agricultural producers. The following discussion does not distinguish between land owners' and producers' rights and obligations in the case of rented land. It would be important to investigate how land owners and farmers negotiate the distribution of benefits and responsibilities, for example by looking at rental agreements and payments. But this is beyond the scope of the paper.

production all together, letting bushes encroach on the meadows and suppress orchids. Land owners and producers were not inclined to follow the management prescriptions by the Protected Landscape Area office because of the perceived negative effects on grassland productivity. They did not risk any negative sanctions, as the administration of the Protected Landscape Area was at a loss enforcing the regulations. The few officers working in the administration saw themselves unable to deal with the large number of land owners. Targeting agricultural producers was also not an option. Around sixty per cent of land owners did not have a written lease for their land, which made it extremely difficult to identify the producers on specific parcels. The administration, therefore, shied away from levying fines on non-compliant land owners and producers. Instead, it sought to motivate compliance with the regulations through awareness campaigns and educational outreach programs.

Land owners, producers, and the administration of the Protected Landscape Area invoked different values to justify their actions. The officers of the Protected Landscape Area voiced the notion embedded in the legislation that land owners are subject to certain duties in land management as a way to preserve environmental amenities. For them, land rights came with the obligation to comply with environmental regulation. The officers pointed at the special value of the protected orchids and understood their mission as to conserve the orchids through proper practices in extensive grassland management. In contrast, land owners and producers argued that land restitution should not only involve the restitution of legal title. They demanded the restitution of all rights on the land in their historical extent, as remembered and portrayed by them. Their argument of historical justice denied the legitimacy of restrictions, such as the prohibition to utilize chemical fertilizer and pesticide, and obligations, such as the requirement to perform grassland management. Land owners and producers demanded financial compensation if the state imposed restrictions on land use.<sup>5</sup>

The local struggles around property took a sudden turn in 1997, when the Czech government initiated a subsidy program for grassland management similar to the agri-environmental schemes of the European Union. Land owners and producers in the Protected Landscape Area have since been eligible for annual payments in exchange for grassland management. They are no longer required to provide environmental amenities for free but are now entitled to receive financial compensation for the costs incurred in the provision of biodiversity. Land owners and producers have gained what Bromley and Hodge (1990) call "presumptive entitlements in the policy arena". The policy entitlements imply a radical change in the distribution of benefits and costs associated with land management. The Czech government now pays for land management practices performed by agricultural producers on a voluntary basis, practices that were legally required without compensation in the past. The subsidy program, therefore, re-defines the rights and obligations associated with land ownership. Land ownership has now become a source of claims on public funds, turning the regulatory regime in *Bilé Karpaty* upside down.

The subsidy program has shifted the terms of debate in the White Carpathians. In particular, three government units have repositioned themselves in reaction to the new regulatory regime and the newly available funds. The program has strengthened the position of the Agricultural Agency, which is in charge of implementation. Being the regional office of the Ministry of Agriculture, the Agency emphasizes agrarian interests. The new funds

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<sup>5</sup> National legislation had opened the door for such conflicting arguments, by keeping the definition of land owners' duties rather vague. For example, the 1989 Land Law and 1992 Law on the Protection of Agricultural Land require land owners to perform "proper" grassland management. Yet what practices does "proper" grassland management involve? Another example is the duty to "maintain fertility". What measure should one use for soil fertility? In reference to what period should fertility be maintained?

help the Agency work towards its goal to achieve "commercially viable" farms. The Agency applies financial criteria, such as minimum area and livestock density, to target the program to "commercially-viable" farmers. Program participation is voluntary and open to producers independently of their location inside or outside the Protected Landscape Area. The environmental goals of the subsidy program generally receive short shrift. The Agency shows little commitment to enforce the environmental conditions attached to program participation. It did not conduct any monitoring of compliance until 2001. When the aerial inspection conducted in that year revealed non-compliance by program participants on around 20 per cent of the contracted land, the Agency refrained from any sanction beyond the request to violators to return the payment received for the area in violation.

The administration of *Bilé Karpati* deplores this lack of linkages between payments and compliance with environmental regulations. The officers call for a reorientation of the payments towards environmental goals, targeting the payments to the more valuable land for orchards, monitoring compliance in a more stringent way, and finding ways to enforce compliance. They want a close linkages between producers' rights to payments and their obligation to perform environmental services. The officers' possibilities to influence program implementation are limited, however, as the park administration does not have any formal role in program implementation.

In addition to these agrarian and environmental moralities, a third value 'rural development' has emerged. The local government authorities and a local NGO assert the goal of broader local development, including agriculture, ecotourism, and other economic sectors. They resent the program focus on large farmers and its neglect of economic and social problems in the White Carpathians, such as unemployment and out-migration. For them, the problem of biodiversity conservation is tied to the broader economic and social viability of rural life in the region. All three government units, therefore, embrace the subsidy program as a means to serve larger goals but assert competing visions of a desirable future. The local authorities demand attention to local development in reaction to the agrarian and environmental values promoted by local branches of national authorities.

#### Preservation of open space in Piaseczno, Poland

The tension between local and wider interests is also a key theme in this case. The concrete issue is that residential development absorbs a rapidly growing portion of agricultural land in Piaseczno County at the outskirts of Warsaw.<sup>6</sup> Agricultural land in the county shrunk at an annual rate of around two per cent between 1995 and 2000. The county government has plans to zone another thirty per cent for residential development in the coming years. Urbanization makes open space in Piaseczno County increasingly scarce, diminishing the recreational value of the land not only for local residents but also the inhabitants of the larger region. Residents of Warsaw and neighboring counties lose the opportunity to enjoy the cultural landscape of Piaseczno, characterized by a mixture of old growth forests, wetlands, swamps, and agricultural fields.

Powerful interests drive residential development in the county. Local land owners have a strong interest in conversion from agriculture to house plots. Most have operated small family farms for decades, even under Socialism. Nevertheless, today they increasingly envision a future outside agriculture and are eager to 'cash in' on the newly acquired right to sell their land granted by the Land Law.<sup>7</sup> Land owners' interests meet those of the broader local population, including long-time rural residents and recent migrants from Warsaw.

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<sup>6</sup> See Wasilewski and Sikor (2003) and Wasilewski (2004) for more detailed discussions of this case.

<sup>7</sup> One hectare of land designated for residential development sells for app. 600,000 Zloty, as demand by residents of nearby Warsaw is high. The amount vastly exceeds the average annual income of 2,000 Zloty per capita derived from agricultural production on the same land.



Those express a dominant concern for economic development, even though some people display some interest in a livable natural environment. People expect the inflow of new residents to bring about an increase in employment opportunities, local businesses, and physical and social infrastructure. The associated loss of rural landscape and open space is not a matter of serious concern. The county government, in turn, has taken advantage of decentralization to promote local development.<sup>8</sup> The 1994 Act on Spatial Development has given the county government the primary authority over spatial planning, which it has employed to serve the local interests in economic development. In fact, its active promotion of local interests has gained it a good reputation among the local population. Land conversion, therefore, is driven by a local alliance of land owners eager to 'cash in' on their newly acquired rights, a broader rural society primarily oriented towards economic progress, and a county government understanding economic development as its primary mandate.

The local alliance faces a regulatory framework that asserts central authority over land conversion for the protection of open space. Land owners have received more extensive land rights under the new Land Law, yet the rights have been connected to certain obligations. One of these obligations is the requirement that land use conforms with the land use category designated by the government. Land owners are not allowed to change the use of the land at their liking. Any conversion of agricultural land to other uses not covered by the government's spatial plan requires approval by the Ministry of Agriculture, even if it is a tiny plot of 1,000 m<sup>2</sup> only. Yet in practice, land owners have an easy time converting plots that have not been designated for residential development in master plan. The required permit for conversion from the Ministry of Agriculture is a mere formality. Land holders usually receive the required permit without any complication. Without any representation at the county level, the Ministry lacks the capacity to subject the large number of requests to any serious check of its environmental impacts.

The county government, in turn, displays no interest to help the Ministry enforce the regulations on land conversion. Being elected by the local population, the county government acts in favor of local interests. Land owners are well entrenched in local politics and county decisions. In addition, the county government itself has a stake in land conversion, because of the nature of the revenue-sharing arrangements between local and central government. Land conversion bolsters the financial resources available to the county government, as it is entitled to retain all revenues from the real estate tax. Also, the county government's share in overall personal income tax returns increases when the local population grows. In Piaseczno, residential development boosted the returns from real estate tax by more than seven times between 1994 and 2000. The revenues derived from the tax almost doubled their contribution to overall county revenues in the same period.

Another element of the regulatory framework governing land conversion is the supervisory mandate given to the central government over the county spatial plans. Central authorities can institute restrictions on allowable land designations and designate protected areas. They have made extensive use of this possibility in Piaseczno, declaring about two thirds of the county's total land as protected landscapes or landscape parks. The county government is legally bound to the land use regulations instituted by the central government when it develops spatial plans. It has to submit its spatial plans to the central government for approval.

The legal framework has little significance in practice. County planning does not follow the directions set out in the regulations. Though the county government may emphasize broader interests in spatial planning, economic growth takes overarching priority when the

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<sup>8</sup> Since the 1990 Act on Local Self-Government, the county council has been directly elected by the local population and enjoys significant legal authority over public matters in the county.

master plan reaches the county council. Local financial interests originating from land owners and rooted in state budgetary regulations exert direct influence on decision-making in the county council. Land conversion is also a primary means of revenue generation for the county government, as discussed above. As a consequence, county master plans have in the past designated areas for residential development that directly violated the principles set out in central government regulations, as county officials are ready to admit. County decision-making follows the logic of real estate market, as a way to maximize county tax revenues, the financial returns to land for farmers, and the interest of broader rural society in economic development. Cultural landscapes and open space get lost in the process.

Central authorities do not have the capacity to exercise their mandate of oversight. The required approval by the Ministry of Agriculture resembles more a rubber stamp process than a serious exercise of central supervision. The Ministry has no means to evaluate the compliance of the master plan with central directives, as it lacks the most basic information about the county. If the Ministry should raise concerns, county governments have an easy time to fend off the concerns due to their superior access to information. There has not been any case yet when a master plan was subjected by the Ministry. Land owners, therefore, are able to ignore the obligations connected to land rights, with active support by the county government. The actions of the land owners and county government dissociate rights from obligations, putting the goal of local development in opposition to and above the environmental goal motivating the national regulation.

### **The contested nature of land as an asset**

The case studies suggest that actual obligations are radically different from those put into legislation for the protection of environmental amenities. Land owners and agricultural producers have ignored the legal obligations connected with the newly acquired land rights. Producers in *Bilé Karpaty* did not comply with the grassland management regulations enacted for the conservation of valuable orchids in the 1990s. Land owners in Piaseczno have circumvented the obligation for land use to conform with the land classification decided by the government. Land owners and agricultural producers, therefore, have reworked the combination of rights and obligations found in the legislation through their concrete land management practices. They have successfully dissociated rights from obligations. Their practices form more general patterns, reconfiguring actual property relations.

Given the reconfigurations of actual property relations, rural privatization has amounted to a much more radical assault on landed property than envisioned by privatization laws. Actual property relations in land have shifted further towards private control than foreseen in land and environmental legislation. Land owners have been quick to assert the newly acquired rights to land. Agricultural producers employ practices that serve their private objectives of generating cash revenues and meeting subsistence requirements. The eagerness to assert the new rights is juxtaposed by various strategies to ignore and circumvent the obligations and restrictions connected with the rights. Where agricultural producers provide the desired environmental amenities, they do that on a voluntary basis and in return for 'presumptive policy entitlements'. Governments find themselves paying for land management practices that were originally assigned to land owners as a legal obligation.

Local contestants invoke different values to justify their reworking of property relations. Czech restitutions portray their resistance against land use duties as a struggle for historical justice. They demand the restitution of land rights in their remembered historical extent, refuting the "new" restrictions motivated by biodiversity conservation. When the government's agenda changes, though, the restitutions and other local residents quickly add an argument emphasizing local development. Asserting the primacy of local interests, they react

to a government agenda that prioritizes national and international interests in biodiversity conservation. In local people's claims, land is not so much a source of biodiversity, but it is primarily an asset to be used for local economic development. Polish land owners profess to a similar concern for local economic progress. In their case land becomes an asset to be mined for local development, which is seen as being in opposition to the preservation of open space. Local people therefore react to environmental legislation and programs not only through material struggles but also by way of symbolic contestations. They couch local struggles against obligations in terms of social justice and local development, countering the government's emphasis on environmental goals.

What is at stake, I surmise, is the very nature of land as an asset. People seek ways to enhance the material and symbolic values derived from control over land. Compliance with environmental regulations tends to affect the profitability of agricultural production and price of land negatively. Land owners and agricultural producers react by ignoring legal obligations, as a way to secure the value of land as a productive resource, source of income, and basis of social security. They may even abandon agriculture or forego claims on marginal land, as happened in *Bilé Karpati*, if anticipated costs caused by the obligations outweigh expected benefits derived from the rights. Land owners and agricultural producers also contest the environmental goals that serve as justification for the obligations connected with rights. They invoke competing moralities and visions of a desirable future that emphasize concerns of local development and social justice. Asserting these moralities and visions they seek to influence the grounds that legitimate the concrete rights and obligations associated with land ownership, hence shape the control over material and symbolic resources derived from land ownership.

The obligations connected with land rights may turn land into a liability. Land is not an asset by nature, but land becomes an asset - or a liability - through the specific rights and obligations connected with land ownership in practice. In reaction, people assert rights to land against competing claims and various contextual constraints on the exercise of the rights (Hann 1993; Verdery 1998, 1999). But it is not only competing claims and contextual constraints that threaten to diminish the value of land to the new owners. One also needs to consider the obligations connected with land rights and their potential to reduce or even erase the material and symbolic benefits of land ownership. People react to the obligations through hidden forms of non-compliance and open protest. They seek to dissociate land rights from obligations, defining the nature of land as an asset. It is the balance of rights *and* obligations, in relation to dominant moralities and visions, that makes land an asset or a liability.

These negotiations are influenced by the 'state of the postsocialist state' (cf. Sturgeon and Sikor 2004). The struggles over rights and obligations are interwoven with the condition of the postsocialist state in at least three ways. First, the nature of government authority, in particular government control over property, influences the contestations of rights and obligations (Howarth 1998). What matters in this regard is not only the capacity of governments to enforce regulations, but also their will to do so, or recognize the sets of regulations emerging from people's concrete practices. Second, governmental actors differ in their alignment with competing interests. These agricultural, environmental and rural development interests differentiate governments and divide different branches of governments. Third, the distribution of government authority between national and local levels influences the negotiations of rights and obligations. The comparison between the Czech and Polish cases is illustrative here, as government authority is highly centralized in *Bilé Karpati* but decentralized in Piaseczno.

Just as the values associated with land are multiple, there are various source of obligations imposed on land owners. My account has focused on the obligations originating from environmental regulations, as environmental concerns are a major justification of duties

imposed on the new land owners. Environmental goals are also at the forefront of current rural policy debates within the European Union and, by implications, the negotiations about accession to the European Union.<sup>9</sup> There are obviously other sources of liability. For example, agricultural producers are typically required to maintain the productive potential of land. Land titles in Romania are connected with the duty to actually work the land (Verdery 1998: 171, 1999: 57). The new managers of agricultural enterprises in Hungary are held legally responsible for the debt burdens accumulated by those in the socialist period (Lampland 2002: 43-4).<sup>10</sup>

Moving beyond Central and Eastern Europe, Deborah James (2004) provides interesting cases from South Africa that highlight the negotiation of the concrete rights and duties associated with land ownership in privatization processes. Although the setting is different, the dynamics underlying land privatization are similar. Just as in Central and Eastern Europe, South Africans are eager to get land rights, for the material and symbolic values derived from land ownership. They find out in the process that the value of land titles is not given but depends on the concrete combination of actual rights and obligations associated with the title. As James points out, the obligations connected with land ownership actually threaten to alienate land from its new owners. People therefore employ various material and symbolic strategies to strengthen their rights and reduce connected obligations. They assert moralities that are quite different from those used by the state to justify land privatization. Like the new land owners in *Bilé Karpati*, South African land recipients justify their visions with reference to a social memory of past rights and obligations, in their case that of the state welfarism promoted by the apartheid regime. James also indicates that people's struggles are related to the condition of the post-apartheid state. The nature of land as an asset is tied to the actions of local chiefs, new and old political elites, and local state authorities.

### **Conclusion: 'recombinant property' and prospects for an environmental bail-out**

The dynamics I describe in this paper demonstrate striking similarities with the 'recombinant property' discussed by Stark (1996) in Hungarian industry. Social actors contest the legal assignment of rights and obligations through material and symbolic struggles. They successfully define obligations away from rights, forming new assets out of rights and obligations. In the process, they invoke values and visions that counter the goal proclaimed by the central government. Their reactions lead to a stark discrepancy between actual property relations and the original regulations, which governments eventually resolve by redesigning regulations in accordance with property relations.

Following Stark, I surmise that the discrepancy between legislation and practice goes beyond the mediation of legislation commonly encountered at the local level. Suggestions of a "gap between the new laws and reality" (Abrahams 1996: 9) fall short of capturing the dynamics of rural property in rural Central and Eastern Europe. Similarly, it does not suffice to explain the gap between legislation and practices with reference to contextual constraints on the fulfillment of obligations, such as lack of government enforcement capacity. Instead,

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<sup>9</sup> Environmental concerns motivate an increasing share of payments to agricultural producers in the European Union. Environmental subsidies currently account for around 15 per cent of total subsidies, their share being on the rise. Their significance varies between regions and producers, however. Environmental subsidies are especially important for producers on marginal land. Many small land owners in Central and Eastern Europe therefore attribute high importance to the expected payments, as suggested by anecdotal evidence. For example, small-holders in *Bilé Karpati* retain their land in the expectation of the subsidies brought about by accession to the European Union, as those might drive up land prices.

<sup>10</sup> One may even argue that land privatization generates new liabilities in a more general sense as land privatization is connected with the dissolution of collectives and termination of social services (Kaneff 1995: 32; Abrahams 1996: 12).

people's practices not only refashion property relations but also influence state regulation. People's reactions to the property legislation are forming new sets of regulations that eventually find recognition in legislation. These reconfigurations of rural property are possible because the larger political-economic and cultural transformations have left a 'social vacuum' in postsocialist Central and Eastern Europe. The radical nature of the larger transformations combines with the massive assault on property relations to throw the most basic social rules and values associated with land up into the air (Burawoy and Verdery 1999; Sturgeon and Sikor 2004).

There are several possible interpretations for these property dynamics. One may conclude that the re-making of property relations is part of a special Central and Eastern European route to capitalism (cf. Staniszki 1991). The emphasis on privatization and weakness of postsocialist governments imply a (temporary?) loss of environmental amenities. Once the economy and political order have stabilized, public interests may motivate more attention to environmental protection again. The question is, however, how easily future environmental efforts can overcome the sets of regulations that are being currently established.<sup>11</sup> Alternatively, one may juxtapose the gains derived from the adaptability of 'recombinant property' with the losses due to the lack of accountability (cf. Stark 1996). Continuous negotiation of property relations and environmental regulations facilitates the flexibility required for the formation of diverse paths of agrarian change and rural development. In this way, the flexibility may serve the search for rural development options at a time when rural people find themselves in radically new conditions. The trade-off is obvious. My account highlights problems of accountability, in particular to regional, national, and international interests in the rural environment.

A third interpretation highlights the distributive aspects of rural property dynamics. Postsocialist land reforms and subsequent environmental regulations impose obligations on land owners and agricultural producers that limit the material and symbolic values derived from agricultural land. The new land owners and agricultural producers end up shouldering responsibility for environmental protection. In contrast, the emerging sets of regulation shift the financial responsibility for environmental protection to governments. Where agricultural producers provide environmental amenities, they only do so if they receive sufficient compensation from government coffers. What is perhaps in the making here is nothing less than an environmental bail-out, with governments taking over the financial responsibility for environmental protection. Bolstered by the pending access to the European Union's agricultural budget, Central and Eastern European governments may just be ready to do exactly that.

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<sup>11</sup> See Schlager (2004) for an example of how difficult it is to change actual property relations.

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