
**Private Property and Public Culture : A Forgotten Chapter of East European Communist Life**

Paul Betts

To speak about private property under 20th century communism may be for some readers a peculiar theme. After all, it was liberalism that built its economic and political order on private property, even consecrating it as a “natural right,” while communism emerged as liberalism’s political rival and historic arch-enemy. Thus it would seem that private property has no application to the study of communism, not least because the very *raison d’être* of communism was doing away with private property as the principal source of material and moral injustice in the world. When scholars do discuss the topic, it is usually confined to chronicling the often violent socialization of property by various 20th century communism regimes, be it the Soviet Union, China, Cuba or elsewhere. What attention is given to private property in communist regimes is largely limited to the fatal accounts of property-owning “enemies of the state” – such as kulaks, aristocrats, middle-class landowners or farmers – crushed beneath the wheels of revolution.

But was private property under communism really non-existent? This is the question that I’d like to address here. Yet the point is not to retell the colorful career of “mixed economies” and private enterprise in the Soviet Union and in the East Bloc after 1945, which has been written about before. Attention instead is to be directed to the place and power of private property itself in Eastern European communism after 1945, something that the state grudgingly came to accept as a regrettable but irremovable element of communist society.

**Two Kinds of Property**

To begin, it pays to recall that there were essentially two different modes of property under communism. The first was what was called “the people’s property,” or *Volkseigentum*, which was based on the collective ownership of the means of production. That is well-known, and does not need further explication. The issue of private property is more tricky, however. While the term was officially banished as ideological pollution, one’s own belongings were delicately referred to as “personal property” instead. Personal property encompassed objects and possessions designated in the 1936 Soviet Constitution – and in their equivalent constitutions across East Bloc satellites after 1945 – as embodying the so-called “satisfaction of material and cultural needs,” such as consumer...

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goods and property items produced, bought, inherited, won or given. Not surprisingly, the legal presence of personal property in socialist life was a source of great trepidation for communist authorities. As Inga Markovits ironically remarked, “socialism was fascinated with property, just as Christianity was obsessed with sin”\(^3\). The concept of property was naturally central to Marxism, in that it was seen as the foundation of all political life and the driving force of global history. For its part, communism never wished to do away with property tout court, but only the bourgeois conception of it, as Marx and Engels explained in their 1848 *Communist Manifesto*. What they sought above all was to break free from the liberal logic and material unfairness of private property, and for this reason Lenin’s 1917 ordinance formally dissolving all private property served as Genesis 1 of modern economic revolution.

But what about personal property? Despite his revolutionary beginnings, Lenin along with his NEP-men eventually introduced a mixed economy of private and socialist enterprise, providing legal protections for both. The same went for private property. While Lenin had all but abolished inheritance in 1918 as a relic of the bourgeois past\(^4\), in no small measure because it was seen as a key element in maintaining the bourgeois conception of the family\(^5\), inheritance rights were slowly reintroduced and integrated into the civil codes of the other Soviet republics by 1922. Once in power, Stalin busily campaigned to remove any last bastion of private enterprise from Soviet economic life, yet his 1936 constitution did formally recognize and protect what was expressly called “personal property” (*lichnaia sobstvennost*), noted above all in Article 10: “The personal right of citizens in their incomes and savings from work, in their dwellinghouses and subsidiary home enterprises, in articles of domestic economy and use and articles of personal use and comfort, as well as the right of citizens to inherit personal property, is protected by law”\(^6\). And this was no mere legal invention, since it opened the door to a new emphasis on an acquisitive Soviet property culture in the 1930s. As Harold Berman argued, by the mid-1930s “there was a new stress on personal ownership of one’s house, of one’s personal belongings, of one’s savings account and government bonds,” as even inheritance too was “freed from crushing taxation and a greater freedom of testation was introduced”\(^7\).

Rights to personal property were further expanded in the USSR after 1945. In part this was because communist leaders came to believe that the production, enjoyment and accumulation of consumer goods as personal property was an important spur to labor, as Aristotle posited long ago\(^8\). By 1948 “every Soviet citizen” enjoyed the right to buy or build a 1-2 storey home up to five rooms, and citizens were allowed to own livestock. Only six months after Stalin’s death, Khrushchev set the tone by insisting that “we must do away with the prejudice that it is a disgrace for workers to own cattle as personal

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\(^5\) Z. Szirmai, *ibid*, p. 41.


property!”

The changing tenor was also registered in the fact that prison sentences for theft of personal property stiffened considerably in the USSR over time, going from 3 months in the 1920s to 5-6 years in a labor camp by the late 1940s. By 1957 taxes on inheritance were all but removed across the Soviet Union and the East Bloc, leading one Western commentator to snigger that the Soviet Union was actually “a more inheritance-friendly environment than its western counterpart”. Homes, cars, boats, dachas, books, jewelry, furniture, musical instruments and household goods were all to be formally protected. A 1961 Soviet ordinance extended the personal property provisions laid out in the 1936 constitution to all Soviet satellite states.

Such issues particularly bedeviled hardcore East German ideologues and lawmakers. After 1945 German lawmakers joined forces across the occupational zones to rehabilitate the old German Civil Code (Bürgerliches Gesetzbuch) of 1900 as the cornerstone of a post-Nazi constitutional order. This civil code was based on a set of classic liberal “negative freedoms” that assured the liberties of free, private citizens against the undue encroachments of the state. It became a key “lieu de mémoire” in its own right, to the extent that it served as the basis of a kind of unified German legal culture after the war.

But with the intensification of the Cold War and the GDR’s stepped-up effort to accelerate the reach of “socialist legality” (sozialistische Gesetzlichkeit) came new calls to “modernize” the code. Ulbricht himself led the charge, citing Marx that a socialist civil code must aim “to bring people out of social isolation and free them from the bourgeois mindset”. A movement arose in the late 1950s to “de-liberalize” civil law by dissolving any remaining individual rights in the name of the vaunted “people’s property”. This reform initiative ultimately ran aground, however, mainly because the Soviet Union objected that such a radical overhaul of civil law was out of step with what was practiced elsewhere in the socialist world. In the end, the GDR essentially followed the lead of the Soviet Union in terms of personal property protection. Inheritance, for example, remained a key feature of East Germany’s Civil Code (even after its radical revision in...
1975), and was firmly anchored in the GDR’s 1968 Constitution (Art. 11, Para 1)\textsuperscript{17}. The right to a “weekend-house” was expressly guaranteed in the GDR’s 1975 Civil Code [ZGB], and even encouraged by the state partly as a sop to citizens who otherwise might consider emigration\textsuperscript{18}. While Ulbricht’s successor, Erich Honecker, may have dissolved virtually all privately-owned enterprises in 1972, private homes and property remained expressly protected\textsuperscript{19}. His new 1975 code recognized the individual desire for goods as fundamental, and protected the right to – and ownership of – consumer objects as basic to all citizens\textsuperscript{20}.

But precisely because GDR civil law legally preserved a dangerous “non-socialist” sphere, there was broad concern that it served as a kind of juridical Trojan Horse within the country’s fortress of “socialist law and justice.” Reformers consequently moved to close the gap between state and citizen by other means. Crucial here was the new ideological justification deriving from Stalin’s idea of the “active superstructure,” which held that state actions (and not just economic transformation) were equally important in cultivating socialist consciousness and citizenship. Law was singled out as particularly decisive in this regard, as East German jurists busied themselves with using courts – and in particular civil courts -- to help combat these new social dangers\textsuperscript{21}.

**Personal Property and Popular Justice**

So much for theory, but what about the popular understanding of private property? It is in this context that these petty claims “social courts,” or *gesellschaftliche Gerichte* – set up in the Soviet Union and across the East Bloc in the early 1960s – are such a revealing source of everyday socialist life, and I will use the GDR’s own “dispute commissions,” or *Schiedskommissionen*, as an example. Briefly these commissions were small informal “comrade courts” established in GDR residential areas in 1963 in order to address cases of minor civil conflict and initiate citizens into the workings of ‘socialist legality’\textsuperscript{22}. They


\textsuperscript{21} I. Markovits, *op. cit.,* 28.

were explicitly designed to complement the successful ‘conflict commissions,’ or Konfliktkommissionen, which had been created ten years before as lay tribunals to deal with minor cases arising in workplace. The brief of the dispute commissions, by contrast, was to settle quarrels between neighbors over sundry petty infractions and ‘antisocial activities,’ with the express aim of re-educating offenders. By 1989 there were some 56,917 people serving as elected ‘lay assessors’ on nearly 6,000 dispute commissions nationwide. By the end of 1967, there were over 5,700 such citizen courts across the country, each one of which heard on average between 3 and 5 cases per month, sometimes more. So proud were GDR authorities of these dual ‘social courts’ that were cited as late as 1989 as ‘incontestable signs of the robustness of our people-oriented socialist justice system and the lawfulness of the socialist state.’ Since 1990 the GDR civil court system has remained one of most potent sources of nostalgia for many East German citizens, even if the sphere of East German civil law was altogether ignored by the Enquete Commission’s otherwise thorough efforts to ‘work through the GDR past’ in the name of post-Reunification democratization.

These courts primarily concerned infractions against “the people’s property” as well as personal property. In fact, by the mid-1960s property violations accounted for nearly 60% of all crimes in East Germany, and remained roughly at that level through the 1970s and 1980s. Violations against the “people’s property” covered such things as shoplifting, stealing equipment from factories and embezzlement, and made up half of the property crimes in the GDR from the 1960s through the late 1980s. Personal property cases, by contrast, covered the gamut of petty claims, ranging from stolen mopeds to damaged sports equipment to scratched automobiles. A large number of property cases – like those of the more formal civil courts – concerned conflicts between renters and private landlords over unpaid rent and overdue house repairs. Others concerned battles between spouses and children over the inheritance of flats and personal items, or about how to
divide up household goods following a divorce. A good amount, too, dealt with conflicts between neighbours over property boundaries, usually regarding garden plots or overhanging trees. What is so remarkable about these property disputes (and this was just as true of the formal civil courts) was that the ruling Socialist Unity Party—ever-present in the rest of GDR life—was relatively absent in these proceedings, especially if they did not concern young people. Here the right to and protection of personal property was the main thing that mattered, giving the supposedly banished spectre of commodity fetishism a lively public forum. Indeed, these were by and large petit-bourgeois conflicts over apartments, gardens, garages, furniture and cars—what has been called the “tiny enclaves of self-determination in an otherwise tight and regimented world”\(^{31}\)—whose causes and concerns were not altogether different from what exercised petty claims courts west of the Berlin Wall.

To be sure, the potential usage of these courts for information-gathering was not lost on state authorities. One 1956 Ministry of Justice report, for example, stated that a principal element of the new courts was to gather information about social life that was otherwise hard to obtain, especially ‘concerning the thousand small things that make life difficult for our people, the removal of which would significantly help ameliorate social relations’\(^{32}\). These courts might then be useful in helping confront ‘the enemies of our state who try by all manner of sabotage, diversion and secret agency to undermine our goals’\(^{33}\). This was seen as all the more necessary, given that the people who usually filed private claims—housewives, self-employed workers and the retired—were considered the very people who remained largely outside the state’s network of mass organizations. In fact, the original November 1953 social court ordinance was passed in direct reaction to the major political upheavals of June 16-17 earlier that year\(^{34}\). The problem for state officials was that residential areas—unlike the workplace—tended to resist state control. This was particularly so in the wake of the 1953 Uprising, as state officials found it difficult to penetrate housing communities. One July 1953 National Front report described the ‘mood of the people’ as wary and suspicious, and that the ‘people are irritated by stepped-up neighbourhood surveillance’\(^{35}\). A National Front report ten years later stated that residents were still sceptical of state organizations in residential areas, and that many citizens—especially youth—were not very involved in communal life or activities\(^{36}\). To overcome this resistance, the courts were to maintain close contacts with the police, National Front, residential supervisors and the formal justice system in identifying ‘asocials’ and ‘rowdy behavior’ among residents, particular young people\(^{37}\). In fact, the

\(^{31}\) I. Markovits, *Gerechtigkeit*, op. cit., p. 58.
\(^{34}\) H.-A. Schönfeldt, *Vom Schiedsmann zur Schiedskommission...,* op. cit., p. 30, 37.
1968 expansion of the dispute commissions across the GDR was a direct response to the threat posed by the Prague Spring that year, as the courts were seen to be able to help identify problem areas and citizens more quickly than the police could.

True to Marxist ideology, the roots of this “antisocialist comportment” were invariably attributed to the catch-all bugbear, “capitalist behavior.” Older residences were singled out as more prone to “asocial activity” on the grounds that around 20% tended to be privately-owned properties, thus keeping alive what were called the “remnants of past worldviews” wherein citizens, as reports claimed, “still believe that they can live egotistically only for themselves” and have no understanding of the “foundations of socialist communal living.”

One 1971 Ministry of Justice guidebook for court jurists summed up the logic by saying that crime in the DDR “has its roots mainly in the influence of the imperial class enemy, in regressive thinking and lifestyles of a number of citizens, who have clung to the ideological holdovers of the [pre-socialist] past.”

Ironically, what exacerbated the problem was the coming of socialist prosperity. At first this may seem puzzling, given the common image of East European socialism as one of economic mismanagement, widespread privation and mass-produced misery. But during the early 1960s, the East Bloc – and East Germany in particular – was in the beginning phases of its Great Leap Forward in “consumer socialism.” By that time the so-called standard of living had become a key ideological battleground of Cold War rivalry, as each system used economic success as a means of showcasing political legitimacy. At the USSR’s 22nd Party Congress in 1961, for example, Khrushchev stressed the central importance of “Everything for the People – Everything for the Welfare of the People!”

and each East Bloc leader followed suit in paying more heed to the ‘citizen-consumer.’ While its actual results may look meager to us now, everyday socialist life was indeed undergoing major transformation. A new socialist “mass culture” was beginning to materialize, complete with new shopping centers, mail-order catalogs, fashion, furniture, housewares and shiny consumer goods of all varieties. This may have been good news for GDR economists and policymakers, but it also meant that there were many more goods for the law – and the courts – to honor and protect. Where the rudimentary social courts in the early 1950s were primarily concerned with relatively scarce personal property items like family jewelry and sewing machines, the 1960s courts were flooded with claims about the new fruit of socialist consumer culture, such as televisions, motorcycles, sports equipment, camping gear and automobiles. How important this was to GDR citizens was acknowledged by Ulbricht himself in 1960, who wrote that socialism

38 F. Herzog, op. cit., p. 36.
can be attained only if the state plays its role in ‘guaranteeing the protection of property and the rights of citizens’\textsuperscript{43}.

The ascendancy of Erich Honecker as First Secretary in 1971 changed little in this regard. The old Marxist notion that the coming of communism meant that the state – and with it the law – would wither away hardly came to pass; in fact, the social court system was significantly expanded in the 1970s in the name of educating citizens about socialist rights and justice. At the 9th Socialist Unity Party Congress in 1976, Honecker made clear that it was to help curb consumer desires, ‘develop socialist society,’ and ‘civilize’ the masses about the norms of socialism one case at a time\textsuperscript{44}. As one guidebook put it, these courts were to serve as a ‘lever’ in the ‘historical transformation of I into We,’ one in which personal rights are not to cut people off from society, but rather will have a law-abiding and collectivizing effect in protecting us from egotistical, undisciplined and unrefined behavior\textsuperscript{45}.

But it was really morality itself that was deemed crucial in assuring that socialist society would not turn into its ideological enemy. The constitutional emphasis on ‘the satisfaction of material and cultural needs’ first articulated in Stalin’s 1936 constitution, and later included verbatim in the civil codes of all socialist republics after 1945, including the GDR, was intended to curb the demons of ‘surplus value’ and unrestrained consumerism. The heavy emphasis on morals at the time – what Dorothee Wierling calls the state’s ‘educational dictatorship’ – was scarcely limited to these courts, and could be seen throughout GDR society in the 1960s, as part of the desperate effort to hold together a society in the throes of febrile modernization and socialist transformation\textsuperscript{46}. Indeed, the 1960s was the Golden Age of the socialist etiquette book, giving rise to a number of mass-produced manners manuals that aimed to create new standards of ‘socialist civility’ in the realm of everyday interaction\textsuperscript{47}. The courts’ crusade to rehabilitate petty offenders was part in the GDR’s broader 1960s social engineering project to remake society after the erection of the Berlin Wall in 1961\textsuperscript{48}. That these infractions derived from a stubborn private property mentality thereby struck at the heart of the socialist project, and warranted serious attention. By the mid-1960s the courts had stepped up their mission to restore socialist norms of good behavior, often by hectoring offenders, shaming shirkers and demanding public apologies. Hardly a verdict was passed without impassioned

\textsuperscript{43} G. Springer, op. cit., p. 87.
\textsuperscript{44} F. Herzog, op. cit., p. 47.
paternalistic admonitions of socialist misbehavior; for the jurists, the infractions were not just moral failings, but affronts against the very power and possibility of socialism itself. Noteworthy, too, is that many of these social court cases (over half by the early 1970s onward) actually pivoted on insults, slander and defamation, that is, violations of citizen honor, as honor was defended in terms of the sacrosanct moral property of each individual socialist citizen. Just as in the Soviet Comrade Courts, defamation was therefore a key concern of these social courts, as they used shame and the public gaze to gainsay public contrition, issue reprimands and reaffirm socialist ideals of good behavior. But by the mid-1970s on, these cases were characterized by a distinctive collapse of idealism, as the courts’ 60s moralizing mission gave way to dryly adjudicating private property claims drained of its once-formidable zeal for social reform.

What can be said about these issues in the end? First, these court records may be read as showing that East German society – despite propaganda to the contrary – was really battling over distinctly bourgeois notions of domestic order, propriety and the good life. The courts’ growing sense of helplessness in combating “capitalist egotism” may then be seen as an admission of the very limits of the socialist reconstruction of everyday citizens, as well as an implicit acknowledgment that these “pre-socialist” bourgeois attitudes were here to stay. In a world defined by scarcity and material want, personal property became even more important, and unsurprisingly became the very stuff of local social friction. The same went for the high percentage of cases concerning violations of honor. After all, it is precisely in societies characterized by little flow of goods and money that honor – as a kind of non-transferable private property – is held especially dear. That the state policed public debate as closely as it patrolled its national frontiers meant that these court confrontations between neighbors became one of the few places where citizens could vent their property grievances. But as always, this occurred within the strict limits of the GDR authoritarian state. That the social court system was developed and expanded in reaction to several ‘system-critical’ events – the 1953 Uprising, the 1961 erection of the Berlin Wall and the 1968 Prague Spring – underlines the state’s effort to use the commissions to multiply its power and paternalistic reach. From the authorities’ perspective, the citizen commissions helped track residential strife and non-conformists in the name of ‘socialist community.’ Nonetheless, in these residential disputes about personal property and individual honor, collectivist ideals often lost out, as complainants effectively reworked the ‘I-We’ relationship to personal ends. Emphasis instead fell on preserving citizens’ own property from the abuse of others – be it their homes, belongings, domestic tranquility and/or personal reputation. As a result, the ‘privatization’ of social justice may be seen as an expression of increasing political pessimism. At the very least, these developments may go some way in explaining why the world of personal property – everyday objects

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and memorabilia – figured so prominently in the nostalgia wave (Ostalgie) among East Germans after Reunification. But consigning these developments to some sort of facile “bourgeoisification” of GDR society overlooks other key issues. For instance, one could plausibly counter – and this is my second point – that what these court records ultimately demonstrate is a kind of citizen assertion of civil society. Doubtless this may seem peculiar, not least because an influential strand of GDR historiography has worked to turn Marx on his head, arguing that it was society, and not the state, that eventually withered away under state socialism. And yet, these court files amply show that a certain expression of civil society – based on the protection of property, domestic peace and even civility – developed at the local level over the years, and the social courts played their part in making this possible. To be clear, the GDR never came close to a classic liberal notion of civil society, since there was no critical public sphere, as Western-style civil rights, such as the freedom of speech, assembly and emigration, were essentially off-limits all the way through the late 1980s. The cozy relationship between the justice system – including the social courts – and the National Front and local police makes this perfectly plain, as noted in several cases discussed above. The key point is that GDR civil society did not develop – as it did in the West – against the state, but rather very much within it. But this is not to say that civil rights were a dead letter. After all, the 1975 Civil Code was an explicit effort to “materialize” civil rights, safeguarding a host of property protections and “subjective rights” for GDR citizens. This logic was firmly in keeping with socialist governments’ understanding of civil rights at the time, to the extent that they saw the right to work, decent housing, health, higher education, and even “rest and relaxation” as fundamental human rights, as opposed to the “abstract” liberties celebrated by their Cold War rivals.

In the GDR and elsewhere, civil rights always remained subordinate to economic rights; but once personal property became a protected fixture of socialist civil law, its citizens began to think and act differently. Arguably, what they took to heart were the original claims of Marxism itself – social justice and material compensation. That the GDR Civil Code of 1975 was a bestseller across the country, having sold some 2 million copies to a population of 16.7 million, attests to socialism’s own burgeoning “rights culture”. However cynically citizens may have cited the code to advance their private claims, the point is that they embraced the law, the court system and ultimately the state itself as receptive organs for the defense of personal property.

This leads me to my last general comment. Given the volume’s theme, we should be well aware of the pitfalls – and ironies – of applying an 18th and 19th century liberal vocabulary of the private and public spheres to describe developments under communism. As many observers have noted, there was strictly speaking never really any real public or private sphere under communism. But to say that the boundaries between public and private were never fixed, and shifted under different conditions, is only the first step; the next
one is to analyze how these concepts were put into practice, by the state, social groups and everyday citizens. The history of the GDR dispute commissions, for example, shows how personal property claims were made publicly in order to defend what was seen as the citizen’s private sphere. In this case, the private sphere was not hidden, secretive, unrepresented or even repressed, but rather was a key element of the social contract between citizens and the state, even rooted in law, with the approval and encouragement of the state. A similar development could be seen in the famed citizen petitions, or *Eingaben*. How perceptions of public and private informed notions of identity, subjectivity and citizen behavior across the East Bloc is a challenging question for historians, but it is one that goes to the very heart of everyday life under socialism.

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Abstract

It is generally assumed that private property was forever banished under communism during the early days of the Russian Revolution. Yet it continued to play a strange and quite powerful role in everyday communist culture from the 1930s on, despite official ideology to the contrary. This essay first considers the political place of private property – rechristened as “personal property” – in communist life over the decades, with special attention toward the East Bloc after 1945. It then uses the German Democratic Republic’s neighborhood-based citizen courts – the so-called *Schiedskommissionen*, or “dispute commissions” – as a case study of how notions of personal property shaped neighborhood conflict at the local level. At issue is to explore how citizens ably exploited the constitutional guarantees of personal property to advance private claims of social justice and modest material compensation before their peers in these informal social courts. As a consequence, these court records cast a new light on the relationship between the public and private spheres under East Bloc socialism.

Résumé

Selon l’opinion courante, la propriété privée aurait été abolie sous le communisme dans les années qui ont suivi la révolution russe. En réalité, elle a continué à jouer un rôle paradoxal dans la culture communiste quotidienne dès les années 1930 et ceci en dépit des dénégations idéologiques. Cette contribution analyse dans un premier temps le rôle politique que joue la propriété privée rebaptisée « propriété personnelle » dans le communisme et particulièrement dans les pays du bloc socialiste après 1945. En utilisant les sources des tribunaux arbitraux de RDA, on analyse ensuite la manière dont les questions de propriété privée informent sur les conflits de voisinage. L’enjeu est de
montrer comment les citoyens ont pu se prévaloir des garanties constitutionnelles en matière de propriété pour exprimer des revendications privées et formuler des demandes de compensations matérielles modestes devant les tribunaux arbitraux ; c'est-à-dire des cours de justice constituées de voisins. Les documents produits par ces conflits jettent ainsi une nouvelle lumière sur les relations entre les sphères publiques et privées dans le bloc socialiste.

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