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Legislative Reform of Property Ownership in Kazakhstan

Steven E. Hendrix*

As Kazakhstan moves toward a market economy, property law will occupy a role of central importance. Historically, the Kazakhstan Republic has owned all 'land' (surface of the earth), while private citizens and public and private enterprises were capable of holding 'property' (all structures attached permanently to the land, plus movable objects). The aim now is to provide a legal basis for a more entrepreneurial economic system (Stanfield, 1993: 3). It is generally assumed that conflicts in property legislation will deter foreign and domestic investment. As a result, drafting of codes has been given high importance as part of a broader strategy to activate the economy.

This article will address the following issues:

- Does the draft Code fulfil its goal in terms of being a 'code' within the civil law concept of codified law?
- Should subsoil rights be 'privatised'?
- How does the Code propose to balance private against public interests in the environment?
- Does the draft Code make adequate provision for private use of public land?
- Does it adequately address the complexities of joint ownership?
- Does it deal adequately with expropriation?
- Does it adequately promote private sector interests in agriculture?
- Does the Land Code address its explicit goals?

In terms of area, Kazakhstan is larger than all of Western Europe. It became independent of the Soviet Union in December 1991. Administratively, it is divided into 19 *oblasts* (the first-level political division), 218 *raiony* (within *oblasts*), 84 cities, 213 worker settlements and 2,470 rural and *aul'nye* (group farm) soviets. Of the country's 17 million inhabitants, 58% are urban and 42% rural. The largest city is Almaty with 1.2 million inhabitants, followed by Karaganda (607,000) and Chimkent (403,000) (Stanfield, 1993: 3–4).

Prior to restructuring, agriculture was dominated by the *sovhoz* (very large state farms, each averaging about 95,000 hectares), and the *kolhoz* (collective farms, averaging about 38,000 ha.). Despite historical and managerial differences in the past, the *sovhoz* and *kolhoz* became institutionally quite

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similar over time (ibid.: 5). On the heels of a new constitution, a new Land Code is being prepared to define land ownership (*sobstvennost*). The Code defines property as including the normal 'bundle of rights': to buy, sell, trade, mortgage, lease, inherit, and use. The draft Code examined here is a 1995 edited version of an earlier draft dated 16 November 1990.

The draft 'Code' within the civil law concept of codified law

In general, a 'code' is a systematic collection, compendium or revision of laws, rules or regulations, usually compiled by commissions and enacted by legislatures. In Communist systems, 'codes' were distinguished from other collections of statutes and related legal rules and considered to be an internally harmonised, periodically updated, supreme systematisation of the rules relating to a specific branch of law. A true code strives not merely to bring together in one place the existing legal rules in one branch of law, but more importantly, to convey in one act, in an internally reconciled and scientifically systematised fashion, all of the accumulated normative materials in the given branch of law. The style of the individual and national codifications within the various socialist countries followed that of either the French or the German codification system (Glendon et al., 1991: 371–80). In Communist countries, the constitution held the highest position in terms of binding sources of law. Below it came codes, with 'organic statutes' filling in areas not covered by a code, or modifying codes, much as in the civil law tradition.

From a practical point of view, countries have used the process of drafting codes as a way of sorting out the substantive law on a given subject and promoting harmonisation. For example, since 1991 in Albania, the legislature has passed many conflicting laws on property without amending the civil law. Seldom has any law repealed prior legislation. Consequently, it is exceedingly difficult to know what the substantive property law is today. Efforts have been proposed to 'clean up' past legislation and identify conflicts in law through the process of drafting a new Land Code. The Albania case thus illustrates three important practical advantages of codification: first, it can reduce the chances of duplication, second, it allows for the identification of gaps and, third, of conflicts in legislation.

Given the above definition of a 'code' and related practical concerns, does the Kazakhstan draft code fulfil its obligations? The clear answer is no. First, it does not bring together existing legislation in a comprehensive fashion, nor does it even assert its own superiority over prior laws.

(a) **Code as superior**. In some places it is superior to prior law, but consistent prior law remains. Art. 2(2) of the Code states that legal relations are still governed by civil legislation not in conflict with the new law, and Art. 4 that land can be private property based on the conditions and within the limits of the code or other legislative acts which do not contradict the code.

(b) **Code as inferior**. In other places (for example, Articles 37, 38, 45(3)), the draft asserts a position inferior to prior law ('unless it is not stipulated otherwise by land legislation').

(c) **Code as equivalent**. Yet elsewhere, the Code and prior law appear to have equal weight. For example, in Art. 43, property is governed by 'terms and limits established by this Code and other legislation'.

(d) **Code as one of several sources of law**. Art. 63 appears to indicate that the Code is not comprehensive, and opens the door to future legislation overturning its provisions ('Legislation can envisage servitude other than those indicated in this Chapter').

In short, the draft Land Code does not fulfil the requirements of a 'code' nor does it advance the cause of legislative harmonisation. A clearer draft would be more comprehensive, would repeal former legislation and would clarify the status of the Code vis-à-vis other legislation, past and future. Legislation should be synthesised and rationalised into the Code, or be redrafted into administrative regulation.

Subsoil rights and privatisation

In Eastern Europe, donors have concentrated on privatisation as a way to activate the economy. Until the fall of Communism, the typical form of land use was referred to as 'tenure' or right of use. Land, the subsoil, forests and water were all regarded as being exempt from commercial transactions (*res extra commercium*). Likewise the buying, selling, mortgaging, leasing, lending, transfer and inheritance of land were also forbidden under most socialist legal systems. Similar policies are found in many of the agrarian reforms legislated in Latin America and the Caribbean (Hendrix, 1995: 6–14).

In the draft Land Code for Kazakhstan, the law would liberalise surface rights in a land market, but would retain high degrees of government monopoly over subsoil, trees and water. Will such a policy be consistent with the donors' recommendation of privatisation? Interestingly, Mexico made a similar change to Art. 27 of its constitution, which allowed state-owned properties (*ejidos*) to be transferred to the occupant-owners, but with subsoil rights being retained by the state. This constitutional change, together with Mexico's entry into NAFTA, represent the single most important legal changes in that country since the Revolution, and have been greeted with high degrees of enthusiasm on the part

of foreign investors (ibid.: 34). The proposed Kazakhstan liberalisation of surface rights may therefore mean a significant change in the land market, even without private sub-soil rights. One final note: Art. 18 of the Code states that private property is a surface interest only, not a subsoil right. If the government thus has subsoil rights over private property, and grants a concession to a third party, is compensation to be paid to the surface owner for any disruption to his enjoyment of the land? This is not clear from the draft.

The balance of private vs. public interests in the environment

General Provision Art. 3 of the Code states that land relations cannot result in damage to the land, or to the rights or interests of third parties. This type of clause was drafted very broadly and is the kind of clause often disliked by foreign investors. What does 'damage' mean in this context? Foreign investors may fear that 'damage' will be inferred for any land activity in which a foreign investor is involved. Lack of definition translates into lack of transparency. Despite this confusion, property rights can be terminated for 'the systematic breaching by the land owner or user of his obligations . . .' (Art. 71(2)(4)). Further, there are threats of administrative and even criminal sanctions in some cases (Art. 125). Consequently, clearly stated rules are needed.

One way foreign investors have dealt historically with similarly vague legislation in other countries was to bribe the environmental inspectors — certainly a way of obtaining legal certainty that land activity was not 'damaging' to the environment. However, this is not a realistic public policy in the face of legislation like the US Foreign Corrupt Practices Act (which forbids US citizens to pay a bribe to any government official anywhere in the world). To avoid under-the-counter transactions, and to give greater effect to the policy goal of balanced public and private interests, more specificity is needed in the Code about what precisely 'damage' means.

A similar problem has emerged regarding the requirement in Art. 34 and repeated in Art. 110, that owners 'raise the productivity of the soil' to retain their tenure. These requirements are open to subjective interpretation, and the appearance of an opportunity for abuse. Furthermore, such obligations on small farmers may simply be unrealistic (Cook, 1995: 1). Like the discussion above on 'damage', might the owner feel his tenure to be insecure because of the difficulty of proving 'a rise in the productivity of the soil'?

In a similar vein, Art. 116 tries to ensure that rational land-use measures are in place. Art. 113 states that private owners or users would be responsible for financing these measures in the event the measures were not part of a larger government programme. Cook, an adviser to the World Bank, argues (p. 2) that, in the context of the Soviet past, such arrangements would most probably be used against private land owners or users. Once again, would private owners or

users feel their tenure to be insecure if they did not take the required measures, given the threat of loss of ownership for 'the systematic breaching by the land owner or user of his obligations . . .' under Art. 71(2)(4))?

Yet another problem emerges from the draft which is distinctly contrary to donor, environmental and public policy interests. Art. 45(3) states that a transfer of property means a transfer of *all existing burdens*. This would appear to mean that an owner who knowingly transfers to another a property with severe environmental damage can escape any liability for the damage caused. Furthermore, an owner wishing to escape taxes could similarly transfer a property. Even worse, the property could be transferred to a shell entity to enable both the old owner and the new to escape liability. Even more simply, under Art. 71(1) an owner can simply refuse his rights, and get rid of property, and hence, via Art. 45(3), of his obligations.

One way to address this concern is to make tax and environmental obligations *in personam* and *in rem*, both to the new owner and the old. This will provide greater assurance that someone will be liable to pay taxes or environmental clean-up expenses.

Private use of public land

Historically, common property, forests, reserves and other public lands have in practice had multiple private uses, especially among historically disadvantaged groups. Land formalisation initiatives can sometimes negate these practices by inscribing land to one owner exclusively, without regard to the practical complexity of overlapping interests in land.

Art. 44 of the Code states that lands in common use, national parks, reserve forests, among other lands, cannot be in private ownership. However, Art. 50 states that a land-use right is possible even on land in state ownership. Consequently, it appears that the law will be flexible enough to accommodate historic land-use practices. However, the implementors of this legislation should take great care to understand the complex use patterns that are often associated with private use of public lands. To take one example: Art. 61 states that cattle owners are responsible to land owners for damage or losses caused by the passage of livestock. If we assume the livestock are passing over public land, to what extent are the cattle owners liable for damage to the government? Does this substantively change existing informal law, which may implicitly give the cattle owners grazing rights? And is the Code supposed to reflect common practice, or to change it?

The complexities of joint ownership

Art. 28 states that if one owner wants to give up a jointly owned property, the other owner must purchase the entire property. But what if there is no agreement, or the remaining owner refuses to purchase?

The draft Code follows standard civil law on marital property. Under Art. 29, joint spousal ownership applies to property acquired during the marriage, but does not apply to inheritance or to property brought to the marriage, unless the property has undergone significant improvement with the help of marital funds. What is not clear from the draft is how creditors are to know the status of property held by a married couple without proper notice.

There are no provisions for spouses and other family members to participate in the management of marital property, apart from the (male) head of household. Inheritance rules are also dictated by the household head's legal status. Much more work needs to be done on how women participate in the family ownership structure, especially for family farms.

The draft allows for 'private' property. As noted above, under Art. 61, cattle owners are responsible to private owners for damage or losses caused by livestock crossing 'private' land. In practice, however, cattle owners may have crossed private lands for years, on the understanding that the cattle had grazing rights for passage. This formalisation of 'private property rights' (without recognising historic use practices) has proved problematic for donors in several African countries. It also violates 'custom' as a source of law recognised under both civil law and socialist legal systems. How will this be handled in Kazakhstan?

Expropriation

Art. 33(1)(5) outlines the 'withdrawal' of ownership, while Art. 46 discusses the 'redemption' of ownership for federal purposes. Articles 71(2) and 74 talk of 'expropriation'. Finally, Articles 123 and 124 speak of 'compensation for losses to owners and to land users'. In each case, compensation is required, and these separate articles could well be collapsed into one generic classification of 'expropriation' (outlining when compensation would be paid and when not, as in the case of withdrawal).

All these provisions rely heavily on an 'agreed price' as compensation, with litigation as the only alternative for determining fair market value. There may be another way, however. The law mentions a planned land tax. Any land tax scheme presupposes the existence of land records and land valuations. From an operational point of view, however, these are expensive data sets to collect and manage. One way to promote the land tax programme would be to provide for self-declared property values for tax purposes (under Art. 48). In the event of expropriation, the government could then have the option of compensating the owner at the self-declared rate. This would provide a major incentive for owners to make sure their property was recorded, and that the price was high. Of course, reporting a high price would also mean that the owner would pay a high rate of taxes (Strasma, 1965).

Confiscation, found in Art. 76, is distinguishable from withdrawal, redemption or expropriation, since it is a punishment for committing a crime. But Art. 76 is vague as to how, when and to what extent confiscation would apply. If this is not spelled out in the criminal code, it should be here. Otherwise, it might open the door to use of the 'confiscation' provision as a means of punishing political rivals, as occurred during the Sandinista government in Nicaragua, citing similarly worded legislation.

An additional complexity involves servitudes under Art. 58. Servitudes on rural property include such rights as a right of way over another person's land, or access to a spring, a mine or even trees. Art. 66 requires that any such servitudes be recorded at the land registry to provide for public notice to potential buyers. What compensation will be needed in the case of redemption of the servitude?

Furthermore, Art. 62 states that the government would have to get the agreement of each owner to enter the land simply for exploration purposes. This seems unworkable, as it would require a large number of private individual agreements with owners simply to carry out normal government functions. Not only does this require time to negotiate, but it also means that funds are tied up. The drafters of the Code might consider giving the government an implicit servitude to enter private land for inspection or scientific purposes without consent, provided notice was given. This is the practice in most developing countries for the maintenance of electric or telephone lines, sewerage and other public works.

A final consideration in any case of compensation is transparency. Payments, such as those found in Art. 54(7) for the transfer of a permanent land-use right through sale, should be public information. Secret deals between landowners and the government arouse suspicion and create the appearance of opportunities for impropriety. Making all compensation matters public would reduce the potential for abuse.

Private sector interests in agriculture

In Kazakhstan the state appears to want to retain at least nominal control of agricultural land. Art. 44 of the Code explicitly states that 'lands of agricultural destination prescribed for production of agricultural goods' cannot be in private ownership. Curiously, Art. 57 contemplates the transformation, liquidation or privatisation of state entities. In this case, procedures for privatising the property

of state agricultural entities, including delegation of the right of permanent use of the land, are defined by the legislation on privatisation. As the *kolhoz* are broken up, former workers as well as government employees have rights to the land.

Here, the conflict between private ownership and use rights may be a red herring. Art. 50(7) states that the terms of temporary land use are defined by mutual agreement but cannot exceed 99 years. Similar experience with agriculture in China and Guyana demonstrates that long-term land-use rights approximate to private ownership interests. Furthermore, the draft Kazakh Code would allow for the mortgage and sale of use-right interests. Private sector agriculture is therefore probably adequately protected, *provided that government policy extends land-use agreements with terms of significant length*. Long-term leasehold is probably a good substitute for freehold, provided the interest is renewable, transferable, marketable, mortgageable and suffers few other restrictions. If such a leasehold is offered, we might ask why the government does not simply grant the freehold. The answer is probably a political reluctance to abandon the past completely.

The real concern should be over the *minimum* number of years for leasehold. If donors wished to ensure that government policy would not interfere with private property interests and that future land grants were made on a long-term basis, the draft code would need to be amended.

On the other hand, the draft legislation probably overreaches itself when it tries to take 'abandoned' land from private owners. As a matter of public policy, governments sometimes try to recapture underutilised property and reallocate it in the seemingly sensible hope of providing more efficient land use. Art. 72 declares 'refusal of ownership' because of abandonment after three years of non-use; in the meantime, clause 4 allows for temporary use by someone else. In practice, such provisions have been the source of abuse. Cases of absentee owners include illness, imprisonment, and travel. Such private owners would be surprised to find their 'private' property confiscated by the state and allocated to others. Furthermore, in the case of those fleeing political persecution, such provisions have been used to seize their property (for example, Nazi Germany, Sandinista Nicaragua). Unless adequate safeguards against abuse are included, donors will probably be shy about backing such a policy.

Cook raises an additional concern. While Art. 80 allows for the creation of private farms out of former collectives, there is little coverage for individuals who wish to leave the collective and take their land with them. Cook correctly notes that an individual land allocation can be denied to an individual, and cash compensation offered instead. He argues that this is a 'loophole' which could freeze the process of agricultural restructuring, as is apparently occurring in Russia (Cook, 1995: 3).

On the other hand, it may be argued that economies of scale (at least in certain instances) require a larger farm size to maintain competitive production

levels. Similarly, group farming allows for self-insurance strategies not available to individual farming methods. In the absence of crop insurance, a group strategy may be the best way to deal with agricultural risk. In such conditions, maintenance of the group farm may be important. From a purely economic perspective, individual farmers should be indifferent about receiving their share in terms of land or cash when they leave.

In defence of Cook, there seems to be little empirical evidence from Kazakhstan that large farms are commercially competitive. Yields per hectare appear to be similar to those of smaller enterprises, but the costs of production on large farms mean they are not at all competitive as compared with small farms. In some cases, less efficient larger estates might be preferable if they provide other advantages. For example, many large Kazakh farms possess equipment more suitable for large estates. However, much of it is in poor repair, and thus is probably not a significant factor in deciding appropriate farm size. Other advantages of large farms include better marketing and input procurement. However, these factors do not appear to be evident in the Kazakh Republic.

If we seek to address Cook's concerns while recognising the possibility that the market may produce situations in which a group farm might be more competitive than an individual farm, two strategies appear possible:

(i) **The Mexican model**: Art. 2 of the 20 June 1991 Land Reform Law in Kazakhstan provided for the right of every citizen and collective to choose their form of land ownership, land use and business activity on the land (Stanfield, 1993: Annex 5.1). Similarly in Mexico, President Salinas' programme to modernise the collective farms (*ejidos*) did not begin by forcing individualisation of tenure, but allowed the members of the group farms to determine for themselves the appropriate economic structure to meet the market, whether to become a corporation, a partnership, to split up into individual holdings, or to do whatever they wished with the land. As a result of this flexibility, immediately after the change in legislation, Pepsico announced a $12 million joint venture with a group farm, one of about a 1,000 joint venture projects announced, totalling about $68m. in new investment for the agricultural sector in the first year (Hendrix, 1995: 35).

(ii) **The Honduran model**: Under the Kazakh Land Reform Act, privatisation has taken place in two ways: the carving off of land from the collectives and state farms to form individual private farms, and the restructuring of state farms and collectives to form co-operatives and joint stock companies (Stanfield, 1993: 5). In Honduras, group farms can be incorporated into shareholding entities, with each member being a shareholder. If the incorporated body decides to sell off land, this is a corporate decision. Similarly it can redeem a shareholding when an individual leaves and returns the property. Or the individual can 'sell out', thus providing access to land for someone who has

been locked out of the land market. This 'Honduran model' is being studied in Albania in connection with that country's former collectives.

How exactly this issue is resolved may already be debatable. The first phase of the privatisation effort was already well under way by mid-1993 (Stanfield, 1993: 5). If much of the land has already been distributed to individual farmers, discussion of whether or how to maintain group farming models would be irrelevant.

One final problem with the draft Code's approach to land use is its insistence on a 'targeted designation' for each plot (Art. 34(1)). Similarly, Articles 88 and 89 provide for urban land control (Cook, 1995: 3). If land use is in practice defined very narrowly, this may limit the economic potential of the land. Cook suggests (p. 2) that the Code should make reference to a forthcoming law on zoning to address this concern.

Instead of such a separate zoning law, a final provision of the Code might simply allow for administrative rules consistent with the Code to be published in future. This would have three advantages: (i) it would not dictate the form or even the title of a future law on the subject; (ii) it would allow greater flexibility in changing the law, something which zoning needs, since 'laws' are much more formal and thus less able to adapt to changing circumstances; (iii) administrative rules will be needed to define other areas of the Code (possibly the registry, cadastre, forestry land use, etc.). A provision at the end of the document will achieve the objective Cook seeks, but in a more flexible manner. Alternatively, the Code could allow for local government to develop its own local guidelines for zoning and development, as well as the 'designated targeting' of property for agriculture.

The Land Code and its explicit goals

Art. 1 lists the goals of the Code: rational land utilisation and protection; reproduction of land fertility; preservation and improvement of the natural habitat; the creation of proper conditions for equal development of all sectors of the economy; the protection of rights to land for all citizens and legal entities; and the creation and development of real estate markets. It proposes to achieve these goals by strengthening legality in the area of land relations.

Using Western donor vocabulary, we might paraphrase the goals as participatory economic growth in an environmentally friendly manner. In this respect, addressing property rights concerns is right on target. Questions of the sustainable use of environmental resources often turn on who has ownership and access to those resources (be they land or water) and on what basis. These are fundamentally questions of resource tenure. Policy interventions such as buffering strategies, titling, intensification of agriculture in sustainable areas and

other tenure-related policies have been defined, examined and tested in a variety of settings.

Sustainable natural resource management requires the provision of alternatives to peasants who invade parks, reserves and fragile lands. Typically, these people lack alternative access to resources. By means of work with land and mortgage banks, taxation, titling, land-for-infrastructure and other mechanisms, donors have come to regard land markets as a tool for providing alternative access to land.

In terms of a participatory land market, legal reform is one element of a broader land-access strategy for disadvantaged groups. Correction of market defects may be accomplished through the market itself by means of land market activisation. Where smallholders are more competitive than their larger counterparts, removal of the legal and market barriers will increase their productivity and food security, generate more employment and enhance participation by the disadvantaged.

However, in both cases, we must recognise that law alone will not produce the desired outcomes. Rather, law should be seen as one element in a broader strategy for land access or resource management. For example, to guarantee viable, environmentally friendly agriculture, the Code establishes restrictions against the break-up of estates. But will such restrictions be effective? Not if informal markets operate and are skewed against the poor. Law should be viewed in this broader context.

Other drafting concerns

(a) **Competence of government bodies**: Art. 12 does not mention land taxation as a competency of any government agency. But Art. 17(5) mentions the responsibility to pay taxes.

(b) **Definition of cadastral**: Art. 14: 'land cadastre' is not clearly defined as referring to the physical, legal or fiscal cadastre (the three main cadastral types under the German civil law system). Art. 14 is assumed here to mean the physical cadastre.

(c) **Decentralisation**: Art. 16 discusses land registration. This is best carried out at the local level. Could this activity be placed under the *maslikhats* (local councils)?

(d) **Welfare vs. economic growth**: Historically in many countries land reform has been justified on the grounds of economic and land resource management, as a way of increasing agricultural productivity and promoting environmental sustainability. But in implementation, it has become a welfare tool for protecting

inefficient producers from the market. Art. 1 of the draft Code establishes the goals of rational land utilisation and protection. However, Art. 55 establishes a type of welfare land access programme for ex-soldiers, mixing welfare objectives with other goals. While this may be entirely defensible and necessary in the *Realpolitik* of Eastern Europe, donors should be aware of this mixing of objectives in the draft legislation, and should present it as such to their respective funders and decision-makers.

(e) **Access to plots**: What is the difference between Art. 20(2) on access to land plots, and Art. 59(2)? A repetition of policy? The exact words are different in the two provisions. Which one governs?

(f) **The multi-purpose cadastre**: Art. 119 on monitoring of land lists a variety of types of land classification and data to be collected for all kinds of purposes. It is not clear what the justification is for collecting these data or who pays for it. Is this monitoring cost justified? Probably it is, but some cost-benefit evaluation analysis should be done prior to drafting the law.

Donors have come under criticism for advancing expensive cadastral systems without proper cost justification or methodologies. The current World Bank/USAID programme in Albania shows that projects can be organised to reduce costs (from about $200 per title in many countries to about $5 in Albania!), while providing better service by taking advantage of the new technologies available in land information management. A similar programme in Kazakhstan could well be justified, the plans for which would go into a revised Art. 119.

The draft code's provisions on a cadastre do not represent a framework for building such an information system. Separate legislation is needed to address this. There is little definition of the system for recording the rights to land granted to family farms other than a presumption that the local raion GOSKOMZEM will store a copy of each land grant or lease. Another office, the Bureau for Technical Inventory, maintains an urban registry. Experience has shown that registry duplication often leads to inefficiency, confusion and opportunities for abuse. This is unfortunate, given the capacity within the country to carry out much of the work needed (Stanfield, 1993: 13–14). Furthermore, the international donor community has come a long way in the refinement of methodologies for standard cadastral project development which stress: decentralisation, transparency, cost recovery, provision by the private sector of traditionally public sector survey services, and the use of new technologies to reduce transaction costs dramatically and promote community participation.

(g) **Capital gains tax**: This does not appear in the draft Land Code. Is it in the tax code? As policy-makers move from socialist to capitalist systems, they tend

to be less anxious about the transition if they see that the opportunities for the concentration of wealth under capitalism can be reduced. Capital gains tax is one way to address this concern. Furthermore, in cash-strapped Eastern Europe, all potential resource opportunities deserve examination. If capital gains tax is not already under consideration, it ought to be.

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