Almost two decades after the fall of the Berlin Wall, the privatization of assets in legal systems that were formerly counted as members of the Socialist Legal Family can be described as completed in just a few jurisdictions. In many the programs are still sources of intense dispute, agitation and even bloodshed.\(^1\) We have no intention of judging the choice of macro-economic systems, however, at least several socialist populations in fact remain that, with privatization either barely in progress, stalled or not recognised to be taking place.

The maintenance of systems of private property is regarded as a critical aspect of governance in an economy based on private enterprise. Failure to achieve stable and predictable property laws and administration of relevant registries, such as a land title registry, brings a high economic cost, particularly with respect to the cost of credit to finance business and infrastructural development. The status of legal title to assets is also a major concern for investors and international trading partners. In addition, the establishment and development of these systems is a high priority of international capacity building institutions such as the World Bank. For the nations in Eastern Europe undergoing transition from socialism, it is also an important step in gaining accession to the European Union.

Our objective is to learn from programs that have been undertaken so far in order to research and develop a more objective process for legal systems that have chosen to take the step of dismantling socialism. The process will take account of the interests of those: from whom property was expropriated/socialized; who have acquired valuable interests in property under socialism; and whose investment projects need to be secured.

The process will also include appropriate procedures for the environmental and land use planning assessment of assets and appropriate decision making and action in these fields. Appropriate policy structures for imple-
mentation of land title registration and cadastral structures will also be researched and developed.

The Soviet Property Model

In this paper we refer to the socialist Soviet Property Model. The Soviet Property Model was developed in the USSR in the 1920s and 1930s. It was transplanted in a relatively intact form to the many new socialist republics that were founded in the early post-war years, from East Germany to China. The Soviet Property Model was a structure for the socialist ownership of resources by the state, and by state and public organizations. In it the state was the surrogate for socialist ownership by The People. State and public organizations held socialist property only for the purposes of the relevant state economic plan. Only personal and domestic items could be objects of personal ownership. Land was an object of exclusive state ownership. Quasi-proprietary use rights were recognised for those legitimately holding possession of land.

This overview is a brief and simplified sketch of the basic concepts and structure of property rights found in the Socialist Legal Family in the mid-1970s which will assist the reader to navigate the details of the system found in other parts of this article and to assess the strategies undertaken to transform the Soviet Property Model in the course of dismantling socialism.

The most fundamental distinction in property concepts found in the state socialist legal model is between: (1) socialist ownership, which was divided into (a) state ownership, and (b) ownership by collectives, cooperatives and other mass organizations; and (2) personal ownership.

State property was vested in the USSR as a state on behalf of The People. The property of collectives and other mass organizations was vested in kolkhozes, other collectively organized units of production, trade unions and other social organizations. Personal property belonged to individual citizens and members of the individual farms which together formed a kolkhoz.

This conceptualization raises the question of a distinction between property and ownership. Private property is an institution of the civil law.

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3. Ibid., 1: 329.

4. See Article 5ff, the 1936 Constitution of the USSR. In Common Law systems personal property is another term for goods, chattels or movable property and the term real property identifies interests in land. In European systems the concepts of movable and immovable property express this distinction.