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Conceptualising the land-conflict-restitution nexus: The case of Cyprus

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The paper develops a conceptualisation of the land-conflict-restitution problematic as a threefold nexus comprising 'land-as-conflict', 'land-in-conflict' and 'land-after-conflict'. This typology is then elaborated using the Cyprus case and comparative evidence from other conflict and post-conflict peace building processes. This wider conceptualisation of land and property issues brings into sharper focus the policy making and institutional challenges for their resolution in peace building.

In Cyprus, 'land-after-conflict' constitutes the principal challenge to achieving a lasting resolution of the property issues for the 210, 000 displaced people – some 25% of the divided island's population. The practical and logistical challenges of resolving land and property issues in Cyprus may be less complex than in other post-conflict peace building situations. However, they remain profoundly intractable because the protracted period since population displacement has imparted new dynamics, intricately binding land and property issues into the wider political, constitutional and legal problematic of a comprehensive settlement of the Cyprus situation.

Keywords: land, property, conflict, restitution, peace-building, Cyprus.

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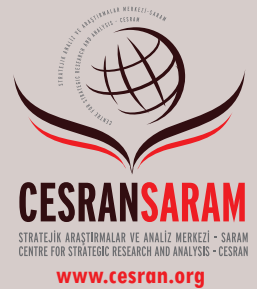
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Introduction¹

All refugees and displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and/or property that is factually impossible to restore as determined by an independent, impartial tribunal. Pinheiro Principle No. 2, 2005^{2, 3}

Resolving land and property issues lies at the crux of post-conflict reconstruction and peace building strategies. Construing it as a core element in Galtung's conception of a "positive peace" sustained by co-operation between groups and nations⁴, it sits alongside truth and reconciliation commissions and war crimes tribunals in the contemporary peace building canon. The Pinheiro Principle cited above define the two specific ways in which resolution may be achieved: restitution of land and property to people forcibly displaced by violence and war (and implicitly population return), or compensation for loss (where return is impossible). Yet the protracted nature of the Cyprus case – unresolved since the 1974 Turkish invasion and division of the island - and before that the example of Palestinian dispossession, reinforce the point that resolving land issues is also one of the most intractable challenges to peace building, and is rarely successfully accomplished even where there has been proactive engagement by international actors as has been the case in Bosnia-Herzegovina (BiH).

Conditions for post-conflict peace building vary enormously in the scale, tasks, capacities, timescales and modalities of reconstruction and recovery. Moreover the nature and intensity of violence and the recession of conflict materially affect the form and progress towards peace and reconstruction. The modes of intervention and the institutional fabric of mediation, such as property commissions will vary enormously.

Given these specificities, the challenge is to develop a set of normative principles by which to unpack and analyse the land-conflict-restitution nexus which can help shape solutions to land restitution problems in post conflict peace processes. To do this I conceptualise the land-conflict-restitution nexus using a threefold typology – land-as-conflict, land-in-conflict and land-after-conflict. This paper then develops this

1 An earlier version of this paper was presented in Brussels in May 2010 to a conference on Property in the Cyprus Peace Process convened by the Peace Research Institute Oslo (PRIO) Cyprus Centre, and the Centre for European Policy Studies (CEPS), Brussels.

2 Approved by UN Sub-Commission on the Promotion and Protection of Human Rights under the auspices of the Committee on the Elimination of Racial Discrimination (CERD) August 2005.

3 UN 2005.

4 Galtung 1975:29.



model by exploring the subject of property restitution in the Cyprus peace process and by reference to comparative evidence from elsewhere. I argue that by tethering land and property restitution to this wider context, the policy making and institutional challenges of achieving viable settlement of property restitution issues is brought into sharper focus. This in turn may help to seek resolution of long-term, intractable situations of population displacement.

Land, Property and Peacebuilding

Land interests and land policy intersect most aspects of a country's cultural, social, economic and political structures: they play a critical role in shaping a country's identity and its development. Moreover the rights-based discourse, which dominates contemporary political debates about development, increasingly embraces the significance of land and property rights⁵. Understanding the intricate relationship between people, land and rights is of course essential if we are to appreciate societal needs and expectations.

However, it is not just the conjuncture of land and development which increasingly preoccupies policy makers and researchers. The relationship between land issues, the proliferation of violent conflicts and their resolution through post conflict reconstruction, have become progressively more significant in academic, policy and donor discourse. This is because land is contested territory, both literally and metaphorically⁶.

In Central America (in the late 1980s and 1990s), East Timor (in the mid and late 1990s), and far less successfully in the Balkans (from the late 1990s to the present), the issue of land both permeates and mediates all the 'r' processes – reconstruction, rebuilding peace, return, reintegration. Earlier precursors of current concerns are the international and national claims commissions and tribunals – for example the still extant German Forced Labour Reparations undertaken by the ILO – as well as the claims of the Palestinians since 1948.

Yet, despite these contemporary and historical examples, there has been limited systematic review either at a policy/programme level, or in terms of academic analysis of land issues – or HLP (housing land and property) rights as they are currently termed. Now, as the lens of the rights-based discourse increasingly focuses on restorative justice, governments and intergovernmental agencies view land and property restitution as one of the principal means to reverse, or compensate for, the social and political injustices caused by expropriation and forced displacement.

Accordingly, land and property issues now receive considerable prominence⁷. Marking this transition to centre stage, the Pinheiro Principles are the culmination of more than a decade of international and local action in support of the emerging right to housing and property restitution as a crucial remedy to forced displacement. Indeed, we now

5 see for example, Deininger and Feder 1998; DFID 2000; Durand-Lasserve and Royston 2002; Jones 2003; Payne 2002; World Bank 2004; Zetter 2004a.

6 Pantuliano 2009; Zetter 2005.

7 RSQ 2000; Fitzpatrick 2002; Zetter 2005; Pantuliano 2009; Chetail 2009.



recognise that land and property issues are part of a much wider humanitarian and peace building enterprise. Cyprus is one of 20 unresolved cases – and one of the most protracted - cited in the Pinheiro report, involving perhaps nine million people from Colombia to Sri Lanka, Croatia (100, 000) Azerbaijan (750, 000) Kosovo (200, 000). Excluded from this total are Afghanistan, Iraq and Palestine: in reality therefore, land and property issues, in some form or other, underlie the situation of most if not all the world's 50 or 60 million displaced people.

Nevertheless, whilst the issue permeates humanitarian agendas of conflict, displacement and peace building, this contestation (and thus solutions) has largely been treated on a case by case basis to date. The achievement of the Pinheiro Principles, although challenged for their somewhat mechanistic and instrumental limitations, is that they do provide a normative framework of policy and practice guidance (consistent with state practice) to address property restitution problems caused by population displacement. What is lacking, however, is a more nuanced conceptualisation of the land-conflict-restitution nexus which the Principles seek to address and which would help to reinforce their normative value. My threefold typology – land-as-conflict, land-in-conflict and land-after-conflict – attempts to provide this conceptualisation.

Setting the Context – Cyprus and the land problem

Cyprus, a former British colony, became independent in 1960. A complex bi-communal power-sharing constitution balancing the interests of the 80% Greek-Cypriot majority with the 20% Turkish-Cypriot minority broke down within three years. Episodes of low-level ethnic violence precipitated the separation of the previously ethnically mixed settlement pattern of the island, and the Turkish-Cypriot population was increasingly confined to separate enclaves⁸. In 1974, following an unsuccessful coup against the President, inspired by the Greek military dictatorship, Turkey – one of the three guarantor powers of Cyprus' independence and neutrality⁹ - invaded and occupied the northern 40% of the island to protect the Turkish Cypriot population in the volatile post-coup period. In a short space of time about 40% of the island's population of 570, 000 became forcibly displaced within the island – some 50, 000 Turkish Cypriots seeking refuge in the north and about 180, 000 Greek Cypriots fled the invading army to the south¹⁰. Added to the pre-1974 displacement of Turkish Cypriots about 50% of the island's population in total lost property and were displaced. Since then the island has been permanently divided into two mono-ethnic zones with a (now residual) UN peace keeping force maintaining a 'green line' across the country. Currently there are "about 210, 000 displaced persons and their heirs, at least one fifth of the island's population" [currently 1.1 million]^{11, 12}.

8 Patrick 1976.

9 Britain and Greece were the other two guarantor powers

10 Inevitably numbers of those displaced are disputed and some of the displaced returned to the border areas after cessation of fighting. An IDMC report of 2007 assesses that there are now 165, 000 Greek-Cypriots and 45, 000 Turkish-Cypriots internally displaced (IDMC 2007:52)

11 International Crisis Group 2010:i.

12 Although the Greek Cypriots were labelled as refugees and this label has endured, by international law they are not refugees – not having crossed an international border – but internally displaced within their own country.



The Republic of Cyprus (RoC), the *de jure*, internationally recognised government only has jurisdiction over the 'unoccupied' 60% of the island and constitutes only the Greek-Cypriot population, whilst the Turkish Republic of Northern Cyprus (TRNC) is unrecognised except by Turkey which sustains the economy of, and maintains a strong military presence in, the Turkish-Cypriot part of the island. Economic disparity between the two sides is large given the effective isolation of the north, especially since accession to the EU in 2004 at present only benefits the *de jure* government of the Greek-Cypriot south. Significant, but disputed numbers of Turkish mainland settlers – "perhaps half the estimated 300, 000 residents of the Turkish-Cypriot north were either born in Turkey or are children of settlers"¹³ - now live in the northern part of the island¹⁴. This further complicates the prospects of agreeing some form of reunification, not least because of the impact on the property issue since the settlers, as well as resettled Turkish Cypriots that fled the south in 1974, occupy land and housing still owned by Greek Cypriots who fled in 1974¹⁵.

Small scale bridge-building initiatives have been funded by various UN bodies and the EU; but countless rounds of UN sponsored peace negotiations, in which land and property restitution and compensation figure highly, have failed to resolve the division of the island. The United Nations, *Comprehensive Settlement of the Cyprus Problem*, in 2004, the 'Annan Plan' of 2004¹⁶ came close to success until it was rejected by the Greek-Cypriot community in a referendum.

A new round of UN-sponsored settlement negotiations commenced in 2008. Still continuing, the prospects of securing a comprehensive solution remain slim. Since the two ethnic communities have not engaged in conflict for over three decades and do not constitute a threat to international peace and security, the international community has decreasingly felt compelled to impose a solution as it has done, for example, in BiH or Kosovo. Nonetheless, although the material needs of the displaced people have been solved in a remarkable post-disaster development programme – notably for the Greek-Cypriot population¹⁷ - the fact remains that the right of return and the restitution of property are still unresolved, in some cases three generations after those events.

After thirty years of absolute division, border crossings were opened up in 2003, allowing both Greek and Turkish Cypriots to visit their abandoned property for the first time since 1974, but not to live in the alternative part of the island. As we shall see, this process imparted new and subtle dynamics in attitudes to return and the potential to reclaim property.

13 ICG 2010:2.

14 Although the ICG constitutes reasonably objective source for the figure of about 150, 000 mainland Turkish settlers, unsurprisingly, the number is uncertain, disputed and further complicated by the fact that some settlers have been given citizenship rights in the north and intermarriage. The 2006 census revealed just over 70, 000 Turkish citizens, conversely a Council of Europe report in 2003 indicated a figure of 118, 000 (all cited in Hatey 2007). It should also be noted that the perceived colonization of northern Cyprus by Turkey is increasingly resented by Turkish-Cypriots and a source of division between them and the often much poorer Turkish mainlanders (Hatey and Bryant 2008).

15 As will be explained later, Greek-Cypriots who fled the north settled in Turkish-Cypriot owned property in the south of the island abandoned after they had fled to the north.

16 The UN proposed Comprehensive Settlement was given this popular moniker after the then Secretary General of the UN Kofi Annan who was very closely involved in mediating the proposals.

17 Zetter 1992a.



The land-conflict-restitution nexus

Land as conflict

Intuitively, it is tempting to argue that land scarcity, competition for land, and distributional inequalities in land rights and ownership, create a stage for competing social, class or ethnic interests which may then escalate into conflict and civil strife. However, evidence is mixed and often ambiguous on the extent to which there is a direct causal relationship between land issues and conflicts¹⁸. Some commentators suggest there is a proclivity to exaggerate land, of itself, as a cause of war¹⁹. To the extent that land issues are amongst the more significant contributory factors leading to violent conflict, they are probably insufficient of themselves. But these same sources provide evidence to suggest that, *inter alia*, unequal land rights and entitlements, unequal land access and ownership (particularly in post-colonial contexts), exclusion of minorities from access to land and land rights, and the inadaptability of customary tenure systems to meet contemporary needs are amongst a range of 'land related' matters which in different contexts have triggered conflict *in combination* with other factors. These variables are present – singly or in combination - in current or recent conflicts such as Dafur, Rwanda, Angola, Mozambique, Namibia, DRC, various West African conflicts, Nepal, and post-election violence in Kenya. They helped to propel anti-colonial independence movements such as in Kenya, Namibia and Zimbabwe. Alongside the geostrategic drivers of the civil wars in Central America in 1980s, access to land and the unequal distribution of land ownership were significant factors. They were factors present in the civil wars of Mexico and in Latin American in late 19th and early 20th centuries.

In many of these examples, peace and reconciliation has necessitated finding ways of resolving perceived historical injustices which have contributed to the phenomenon of land-as-conflict. Land-as-conflict is now explored in the case of Cyprus to demonstrate how this analytical tool can be applied to draw out conclusions and to develop peace-building norms to address land restitution issues.

In the sense that land issues reflect wider structures of social power and economic injustices that lead to conflict, land was not a chronic 'grievance' factor in the case of conflict in Cyprus. Land ownership is deeply embedded in the social norms of the island²⁰. However, compared to some of the examples cited above, private land ownership, as the basic organising principle²¹, was neither disputed as a fundamental norm of the political-economy of Cyprus, nor was it a source of disagreement or discrimination between Greek and Turkish Cypriots in terms of distributional inequalities. Although access to land and housing finance was and remains a problem for poor Cypriots, the politics of landlessness as the source of inequalities and injustice, which is often one of the factors precipitating civil war, was not the case in Cyprus. Similarly, respect for property ownership, property rights and entitlements are immensely strong. Tenure

18 Arcand and Pons-Vignon 2003; Duffield 2001; Stewart and Fitzgerald 2001; Keen 1998; Homer-Dixon and Percival 1996.

19 Alden 2009.

20 Bryant 2010: especially 79-101.

21 Karouzis 1977.



and title disputes were few; customary rights, as a potential source of large scale dispute, did not exist; and conflict over public expropriation of land did not arise. The machinery for regulating, protecting and securing real property rights, land ownership and titling, if not the machinery of property restitution claims, is all in place. This is reflected in one positive legacy of British colonial rule, an efficiently functioning Land Registry which, although now divided between north and south generally maintains its pre-1974 efficacy. Details of land ownership are enviably precise and clear. Finally, land was and is a crucial commodity in the Cypriot economy: the land market functioned and functions extremely vigorously, evidenced by the failure of the separate planning system to regulate urban growth in both parts of the island.

Of course profound challenges remain in Cyprus surrounding resolution of the land issue. As a result of the 1974 invasion, tens of thousands of people cannot access what they own (as is the case with the three million displaced by civil war in Colombia for example) and others in both the north and south of Cyprus have settled land, albeit through formal registration mechanisms, they know is not theirs (as was the case in Rwanda and Timor-Leste). Even so, the Cyprus case has many positives compared with most other post-conflict situations. Many of the problematic land issues that remain to be resolved after so many other civil wars do not form part of the challenge in Cyprus. Nonetheless, analysis of these comparative advantages points to some of the challenges that confront peacemaking initiatives in other countries where land-as-conflict has been a much more prominent causal factor in civil war and forced population displacement.

Market-based solutions, which are often promoted by international actors as the way to ensure durable peace, already exist, function well and the important economic commodity function of land is accepted: a land market does not have to be designed (or imposed as part of a neo-liberal peace building agenda) *ab initio*. Ownership is clear cut and unlike other situations – for example in the Balkans - property records were not destroyed as part of the prosecution of war; up-to-date land market and land use data are readily available. Even though land prices have escalated at an alarming rate over the last few decades around the main towns and cities and the housing-land affordability gap continues to widen – an acceleration which is in part the legacy of land market instability created by the vast population displacement in 1974 – this is in essence an issue of socio-economic disparity. It is not a matter of competing political ideologies over land distribution, nor is it connected to the political and constitutional disputes which generated inter-ethnic tension that produced the Cyprus conflict. All this is a positive legacy.

In summary, we might conclude that land-as-conflict is not an overly significant variable in resolving land and property issues as part of the comprehensive settlement of the Cyprus problem. However, more than thirty years since displacement, a land-as-conflict lens highlights two, so far, intractable problems in the property restitution debate.

On the one hand, some form of restitution has been promoted in all the peace building initiatives as a principle of *human rights* in the broadest sense. This draws



on the powerful belief in land ownership and the restoration of land and property, especially promoted by Greek Cypriots in the search for a settlement of the island's division. In this respect, although far predating the Pinheiro Principles, it is notable how the rights-based discourse on land restitution promoted by the Greek Cypriots now constitute some of the core Principles such as respect for the home, the right to peaceful enjoyment of possessions, the right to freedom of movement. In other words this underscores the restoration side of the Pinheiro equation noted earlier.

On the other hand, the equally strong adherence to the commodity value of land in Cyprus poses the restitution issue as one of *property rights* and thus also a matter of compensation²². Although not mutually exclusive, the two sets of rights are distinct. In the former case, and arguably the more intractable of the two, we are dealing with restitution as implicitly an issue of the right of return: in the latter case the greater concern lies in the potential for compensation, which to some extent was resolved by the Annan plan in 2005.

Land in conflict

In many violent conflicts in the last two decades - whether through civil or interstate war - the mass forced expulsion of people from their habitual places of residence and the expropriation of their land, housing and property, have been the principal instruments, if not the defining characteristic, of the conflicts themselves²³. Ethnic minorities (and indeed majorities as in Cyprus and Rwanda) have been targeted: massacre, expulsion and expropriation – a process of 'deterritorialisation' and ethnic cleansing - are the tools of this violence. In the contemporary period Rwanda, BiH, Kosovo, Laos, El Salvador, Guatemala, East Timor and Sri Lanka, are amongst the most familiar examples of these so-called complex humanitarian emergencies where dispossession of property and exile have been amongst the principal instruments to propel conflict.

In other conflicts, capturing territory is directly part of the belligerents' military strategy to control land, resources and people, or to reward allies and supporters, for example in Angola, DRC, Liberia and Sierra Leone²⁴. Warlord economies, such as these, are a particularly pernicious, violent, although ultimately unsustainable, feature of contemporary conflicts in fragile states.

Property expropriation was a less explicit instrument of regimes in Afghanistan, and most recently Iraq. However, the subsequent enforced separation of different religious and ethnic groupings in Iraq, and the protracted nature of internal and external exile in both countries have ensured that land rights and restitution are now critical features of these crises²⁵.

How do these characteristics of land-in-conflict bear on the Cyprus case? If the concept of land-as-conflict has little purchase in Cyprus, the thesis of land-in-conflict is more

22 The importance of this generic distinction is made by Unruh (2009:64). Its relevance to the Cyprus case is particularly apposite.

23 Kaldor, 2001; Barakat 2005; Keen, 1998; Loescher et al., 2008.

24 Keen 1998.

25 Alden-Wiley 2003.



relevant but not overriding. As we have seen, land issues did not impel the conflict; but they have propelled it. Although conflict-induced displacement, first in 1963 and then in 1974, reflects some of the modalities of dispossession and forced expulsion evident in these other examples, there are unique characteristics in the Cyprus case.

At different times, as we have seen, the majority and minority populations in Cyprus have been forcibly displaced from their land and their habitual places of residence through inter-communal violence and military invasion. Mass expulsions were not accompanied by the genocidal violence experienced in Rwanda or BiH. Nevertheless, the total separation of the two main ethnic communities after 1974, is both a powerfully symbolic and a material representation of 'deterritorialisation' and the loss of home²⁶. Moreover, the prime objective of territorial control in Cyprus has been to secure population security and protection together. It has not been an instrument of a rapacious and exploitative war economy as we have seen in West Africa states or the low intensity conflict in Nepal. Clear evidence of the territorial security thesis lies in the large scale urban development on both sides of the divided capital Nicosia²⁷. A consequence of the post-conflict (ie peace-time) economic development strategies of both communities in Cyprus, this outcome would have been unachieved, of course, where territorial control, and thus territorial security, was unfinished business.

From this same perspective there is another distinctive feature of the land-in-conflict thesis of Cyprus. In the immediate aftermath of war, the international community usually tries to move quite quickly to implement reconstruction programmes as a physical necessary, as the means to rebuild livelihoods and, where possible as a symbolic instrument to restore the political and social 'normality'. From East Timor to BiH and in the aftermath of war in Central America and the war torn countries of West Africa, the 'relief-to-development continuum' has been the principal, though technically and politically contentious, tenet of the post-conflict reconstruction paradigm²⁸. In this model, land and real property are crucial resources in underwriting the physical task of reconstructing and rehabilitating the war-damaged built environment - for example emergency housing repair, large scale new housing projects for returnees, infrastructure, rebuilding or developing new industrial and commercial land uses.

Again there are parallels and significant differences in the case of Cyprus. Compared to many other war-torn countries, the legacy of the 1974 invasion was relatively small scale physical destruction. The main consequence was an enormous structural disequilibrium in the island's economy and housing supply systems, notably on the Greek-Cypriot side given the much larger proportion of that population who were displaced. However, these conditions and the relief-to-development process have been resolved far in the past²⁹. Ironically whereas elsewhere reconciliation and development are co-related objectives of peace building, in Cyprus there has been development without reconciliation. Moving towards four decades of separation in

26 Zetter 1992, 1999; Taylor 2009; Bryant 2010.

27 Zetter 1992a, UNDP/UNOPS 2004.

28 see eg EC 1996; Kumar 1997; Macrae 2001; Pugh 2000; UNHCR 1995: 143-186, 1997; Zetter 1995, 1999a, 2005.

29 In making this point I recognise that there still exists enormous disparity between the Greek and Turkish Cypriot economies.



Cyprus, it is the protracted impacts of the land-in-conflict nexus which constitute the main challenge.

As a result, the contemporary land and property issues resulting from the conflict take on a rather different character and now relate to: a) the unresolved problems of restitution and compensation, in other words land after conflict; and b) how to collaborate in managing a powerful urban land market whilst implementing effective land use planning on both sides of the Green Line. These challenges segue into the third typology

Land after conflict

Land-after-conflict constitutes the most significant of the three typologies with which to analyse the Cyprus situation and indeed in most if not all post conflict and peace building scenarios. Indeed, in the latest UN-brokered negotiations for a comprehensive settlement of the Cyprus problem (which commenced in 2008), by far the largest number of sessions of the bi-communal talks between the President of the RoC and the Turkish-Cypriot leadership have been on the subject of land and property – by January 2011, 18 sessions in all. This being the case, we first need to appreciate the wider context of international norms and action.

Of the three durable solutions to refugee displacement, voluntary repatriation has been the preferred solution of the international community since World War II. It is predicated on the 1951 Geneva Convention on the Status of Refugees and embedded in the doctrines of the UNHCR. Over the last 60 years, in an era of mass refugee populations, return ‘home’ has been the cornerstone of international policy and indeed, millions of refugees have been repatriated³⁰. The 1990s were promoted as the decade of repatriation and six million refugees returned home. Two factors underpin this aspiration.

In the first place, in virtually all recent violent conflicts, the position adopted by the UN, intergovernmental agencies such as the EU, and most governments has been, *a priori*, to defend and restore the integrity and sovereignty of the nation state in some form or other in East Timor, Cambodia, Guatemala, Mozambique, Rwanda, in a hybrid form in former Yugoslavia, and of course Cyprus. Likewise return is the international community’s ultimate aim for the two million Iraqi refugees and the larger number of Afghan refugees.

Since forced population expulsion has been one of the principal instruments by which warring groups seek to redefine the state in violent conflicts, the return of forcibly displaced people (so called minority returns) is the cornerstone of rebuilding the sovereign state reconstruction and the current paradigm for post-conflict peace and reconstruction³¹. Yet, it is worth recalling that the reconstitution of the nation state by this remixing of peoples³², is in stark contrast to the stance of international policy making in the first half of the 20th century when population separation or un-

30 Black and Koser 1999.

31 Duffield 2002; Kumar 1997; Macrae 2001; Pirotte et al. 1999; Pugh 2000.

32 I am grateful to my doctoral student Rebecca Brubaker for highlighting this concept.



mixing was promoted: the most obvious example being the Treaty of Lausanne which engineered the massive population exchange between Greece and Turkey in 1924. Indeed in the Cyprus case 'remixing' has been proposed as part of a comprehensive solution but only acceptable to TRNC with very small numbers.

There is a second reason for promoting repatriation. Intuitively, it is argued that displaced people have an affinity with 'home' and a 'sense of place' and identity - symbolic values which are given concrete meaning through ownership of land and property. Return, therefore, is perceived as the symbolic restitution of the bonds fractured by forced exile³³. In many respects it seems a self-evident solution to forced displacement. Even so, the nature of the ties which people have with 'home' is not straightforward, and there is increasing academic debate on their nature and strength³⁴.

And yet, despite the international aspirations on the one hand, and the sense that return is the 'natural order of things', on the other, repatriation has been increasingly difficult to achieve in the last decade. Over 60% of the world's 10.5 million refugees remain in conditions of protracted exile³⁵,³⁶. The reasons are complex, but four factors predominate. Contemporary civil wars in fragile states tend to be protracted if episodic - return is rarely a short term option. Second, the prospect of safe, voluntary repatriation is predicated on securing international agreement between host countries and countries of origin (for refugees) or national agreements (for IDPs): which are trusted by warring parties and which are sustainable. These objectives have proved immensely challenging. Third, even if these challenges are resolved, after long periods in exile, displaced populations have settled and established livelihoods in their new locations: they may be unwilling to return to uncertain economic and social conditions. Finally, protracted exile imparts complex political dynamics to the meaning of return and the conditions under which it may take place. The issue of land and property restitution infuses these factors.

Given the international community's view that the right of return home has, at least until recently, been the *sine qua non* of post-conflict peace building, how does the objective of durable solutions intersect land and property restitution? It is argued that restitution is fundamental to return and the cornerstone of post-conflict reconciliation and social reconstruction³⁷. Restitution of property, it is argued, is the social and political turnkey which enables dispossessed refugees and IDPs, quite literally, to return to their 'homes' and embark on the process of repairing the social and physical fabric, to transcend ethnic divisions and to rebuild the structures of governance and justice in a sustainable way³⁸. By enabling return, property restitution provides both symbolic meaning and the policy apparatus to achieve the wider aspirations of social

33 Taylor, 2009, Zetter 1999, 2004.

34 Malkki 1995; Warner 1994; Markowitz and Stefansson 2004.

35 The parameters of the UNHCR's definition of protracted exile are refugee populations of more than 25, 000 in exile for more than five years.

36 Loescher 2008a; Elhawary 2009.

37 UNHCR 1995, 1996, 1997, 1998; Leckie 2000; OECD 2001, 2003; Fitzpatrick 2002; Arcand and Pons-Vignon 2003; Zetter 2005.

38 CoHRE 2001.



and economic reconstruction, ethnic reconciliation and peace building. The Pinheiro Principles reflect the dominance of this political agenda.

Whilst the right of return is embedded in peace agreements – most notably in the Dayton Accord on BiH in 1995³⁹ – and protected by international law⁴⁰ and norms⁴¹, exercising this right through property claims and restitution is usually a highly disputatious process. As Garlick confirms, “clarification of property rights is one of the most extensive, complex and sensitive challenges to face the people and institutions of Bosnia and Herzegovina”⁴². Whether individually or communally, by agreement or by spontaneous repossession, by formal or informal measures, property claims are infused with political controversy as well as legal and procedural complexity (see eg Amnesty International 2000). The scale of claims further accentuates this complexity: for example over half the 4.4 million population of BiH were displaced and thus potentially the subject to property claims.

So, voluntary return is underscored by contradictory conditions and these are reflected in the Cyprus case. Are we dealing with conditions of protracted displacement and, despite the integration of the refugees from 1974 into two new economies, the expectation of return? Conversely, as protracted exile continues, are we confronted, de facto, with the un-mixing of peoples characteristic of the first half of the 20th century? Societal needs and expectations with respect to the issue of land and property lie at the heart of these contradictions.

What might we conclude about the Cyprus case from experience elsewhere?

First, as we have seen from the earlier analysis of the three typologies, in many respects it could be argued that the specific land and property issues in the case of Cyprus are less complicated than in other post-conflict situations. There is no legacy of land inequality as the precipitate of conflict between Greek and Turkish Cypriots and thus the necessary focus of post-conflict peace building measures; and only to a very limited extent were land and property issues embedded in the conflict itself. However, these positives are diminished by the much larger post-conflict challenge in Cyprus. This is to agree a comprehensive political and constitutional framework for resolving the division of the island within which some form of population return and thus the restitution of land and property rights can be accomplished. From this perspective, Cyprus provides ample evidence of the way in which political and legal contestation over land and property rights is mediated by the wider context of political settlement and potential level of return for displaced people.

The second point builds on this first factor. Evidence of how property restitution has been tackled elsewhere (eg BiH, East Timor, Central America, Sudan⁴³, suggests that where these matters are not tackled reasonably quickly and as part of a comprehensive

39 see eg Rosand 1998.

40 RSQ 2000: 234-236, and 246-248.

41 United Nations 1998, 2005; Thiele 2000.

42 Garlick 2000:66.

43 –see respectively, Development Research Centre 2004 and Pantuliano 2009; Fitzpatrick 2002; Betts 2009: 92-98; Alden-Wiley 2009.



post-conflict peace and reconstruction process, then they become potentially intractable barriers to long term reconciliation and peace building as political will recedes. In many other situations, property restitution has been a significant first step in the return process; but not in Cyprus where in practical terms it sits well to the back of many other confidence and trust building measures between the two separated populations. With respect to land issues in the case of BiH “many of the problems can be traced back to the critically important post war period and often there has been too little done, too late”⁴⁴. After countless rounds of internationally mediated talks, the lack of such an expedited formula in the Cyprus case is obvious and implies an uncertain and rather pessimistic prognosis.

Third, evidence suggests that there is a significant relationship between institutionalised and non-institutionalised conciliation for dealing with property claims after war. Bailliet, in discussing the Guatemala experience documents the value of the latter approach which, in her terms, is “non-adversarial, low cost and focused on restoration of social harmony”⁴⁵. Other authors also argue for a ‘popular empowerment’ approach⁴⁶, advocating delegated and participatory mechanisms. In BiH, local municipalities were empowered to agree the pre-war occupants of properties and the lists of legal rights and claims to properties which were then to be independently corroborated by the Property Commission. Pankhurst⁴⁷, whilst defending the sanctity of rights, nonetheless cautions against the ‘automatic’ recourse to the formal institutionalisation of rights and restitution claims: she argues that sometimes informal approaches are less confrontational and thus more appropriate.

On this point of populist approaches, there are opportunities and constraints in the Cyprus case. On the one hand, advocates draw on situations where the framework conditions – ineffective land law, weak institutional structures, poorly functioning or inaccurate land registries and cadastral records – are either a pre-conflict legacy or do not function in a way that is trusted by local people after the upheaval of conflict. This is clearly not the case in Cyprus since Cypriots are sufficiently empowered in matters of land and property. Equally, a political resolution of the Cyprus problem has always been a highly institutionalised process – through countless rounds of UN-mediated negotiations - which has precluded more populist or grass roots approaches. On the other hand, where participatory processes may be of value, in Cyprus this is in achieving the wider aspirations of shared confidence-building, as a part of the reconciliation process, and in encouraging trust between the two communities.

Fourth, property restitution commissions are a common element of most post-conflict peace agreements⁴⁸ and evidence in support of their critical operational and strategic role in mediating complex and large volumes of property claims is overwhelming in several respects. Most obviously, they are the most practical, equitable and

44 Development Research Centre 2004:7.

45 Bailliet 2000:198

46 Alden-Wiley 2009: 45-46.

47 1999

48 E.g. Croatia, Kosovo, Burundi, South Africa, Aceh, Georgia, Tajikistan, BiH and Sudan have all established land commissions.



efficacious way of ensuring property restitution and compensation. Next, they tether these essential post-conflict obligations to the wider remit of peace-building and reconstruction. Finally, they demonstrate the process of establishing good governance - transparency, equity, efficiency and so on. In this respect, the Cyprus Property Board (CPB) - proposed in Annex VII of the 'Annan Plan' for Cyprus⁴⁹ - was a positive proposal. Matters of jurisdiction, authority, legal procedures, recourse to judicial appeal in relation to property commissions are not the main concern here. Instead, what is important is the extent to which the CPB reflects and represents societal needs and expectations in Cyprus.

Building on the experience of other property commissions (notably the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) in BiH^{50, 51}, it appears that some of the challenges that have arisen elsewhere have been anticipated, if and when the CPB might commence its work. Sufficient professional and legal resources are needed to deal with the large number of claims for restitution and compensation, the issue of secondary occupation, and with mechanisms for resolving disputes. For example the CRPC in BiH dealt with 217, 000 disputes by 2002. Another issue is that the CPB may become too bureaucratic and slow down the restitution claims (as has happened in South Africa for example).

On these important logistical matters, the number of potential property claims in Cyprus is disputed but has recently been documented, on the basis of claims made by the two Cypriot populations, as 46, 000 properties left behind in the north by fleeing Greek Cypriots in 1974 and 16, 200 left behind by enclaved Turkish Cypriots after 1963 and then by the total displacement to the north in 1974⁵². The actual number of claims could be substantially higher, depending, inter alia, on the territorial adjustments, and compensation for loss of revenue and rental income, for example. Indeed, the Turkish Cypriots rejected the 1992 proposals for a peace settlement because they estimate that it would have produced up to 37, 000 secondary displacements^{53, 54}.

Thus there must be concern that the CPB would not be able to deal with all the claims without recourse to simplified procedures, for example developing processes which allow for undisputed claims to be expedited, setting some standardised compensation thresholds. In this regard, fixing a base line date for valuation and resolving the issue of lost rental income could be significant sticking points.

Other concerns, that there is a lack of sufficient publicity for the work of the CPB, or that there are inadequate means to establish the evidentiary claims of dispossessed owners (as occurred in the Balkans), are unlikely to be problematic in Cyprus. The

49 UN 2004.

50 Commission for Real Property Claims of Displaced Persons and Refugees (CRPC) established under the General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 7, art. XII, paras. 1-8, Nov. 21, 1995, available at http://www.usip.org/library/pa/bosnia/dayton_gfa.html

51 The aims and the procedures of CRPC were compatible with the European Convention for the Protection of Human Rights and Fundamental Freedoms.

52 ICG:2 and 3.

53 cited in Emerson and Tocci 2002:61.

54 Anecdotal evidence cited by Greek-Cypriots at the 2010 Brussels conference on Property in the Cyprus Peace Process (see footnote 1 above) suggest there could be 400, 000 individual property parcels.



means to enforce decisions of the CPB are reasonably well safeguarded by the effectiveness of the legal system in Cyprus: the lack of such mechanisms inhibited the implementation of the property restitution in BiH. A fixed period of operation – 10 years was proposed for the CPB in Cyprus – echoes the experience elsewhere. The appointment of international experts alleviates challenges to impartiality and this too is foreseen in Cyprus with three international members of the seven-person Board. To this extent, the potential for tensions over re-establishing land and property rights to undermine social needs and expectations, has been positively anticipated in all these mechanisms.

Above all, one of the most important lessons from the work of the CRPC in BiH, which is of equal significance in Cyprus in the context of social expectations, was the shift of focus from the highly politicised process of return to what Williams terms the “more impartial “rule of law” approach, connoting an emphasis on individuals’ rights to their former homes” not on group determinations ⁵⁵.

Fifth, there is the question of finance. The perennial issue of agreeing the baseline valuation for compensation exists in Cyprus as elsewhere. More significant is the funding regime itself. Without substantial funding, inadequate resources have proved a barrier to effective implementation of commissions’ plans for property restitution. Anticipating these demands in Cyprus, an innovative funding mechanism of property bonds was established for the CPB. The extent to which an agreement might stimulate medium term economic growth, as happened post-1974 on the Greek-Cypriot side, which could partly fund land restitution, also remains a possibility. Nonetheless, recourse to international funding would still, almost certainly, be necessary given the high current value of real property in Cyprus and thus the high cost of meeting compensation claims. The World Bank, UNDP, UNHCR and EC have funded various commissions elsewhere. In any case, international support and expertise for property restitution would buttress the wider international political support and pressure which will be needed to end the division of Cyprus. However, given the relative levels of prosperity in Cyprus and the current world economic recession it is unlikely that more than token international funding will be forthcoming. Thus more innovative thinking is needed. It would be ironic if funding constraints became a barrier after so many years of political impasse.

A sixth issue is the problem of the secondary occupation of property. The more protracted becomes the failure to resolve the overall issues of land and property restitution after conflict, the more embedded become the problems related to secondary settlement or so-called ‘double occupancy’. The free-for-all land grabbing that characterises some conflict and immediate post-conflict situations create confusion of entitlement and ownership and may make restoration an intractable problem. This was the case in Central America and in East Timor, although here it was resolved within a couple of years. It was and, to some extent, remains an issue in BiH where legal procedures and bureaucratic barriers are deliberately erected to prevent reoccupation or to obstruct restitution. Whilst Cyprus has not experienced these ‘illegal’ practices,

55 Williams 2006:40.



secondary settlement, although an orderly and officially documented process by both administrations, is now a deeply embedded feature in property occupation. As we have seen there are a very significant number of Turkish mainland settlers who occupy Greek Cypriot property. To them are added the resettlement of Turkish Cypriots who fled to the north and accepted Greek-Cypriot property as 'compensation', to a much larger degree than the Greek Cypriots who fled to the south and settled in abandoned Turkish-Cypriot property⁵⁶.

Provisions were made in Annex VII of the 'Annan Plan' to mediate this situation in an equitable way. But irrespective of whether there is a commission to implement these proposals, the larger predicaments, as noted above, are: how to unlock secondary occupation after such a protracted period which would enable the original owners to return; how to establish compensation values and payments where ownership is rescinded; how and where to resettle the very large number of Turkish mainland settlers who occupy Greek-Cypriot property in the north of the island; and how to deal with majority return of Greek-Cypriots as opposed to the experience of minority returns elsewhere. There are formidable logistical and political challenges here. Although not unique to Cyprus, nevertheless Cyprus offers perhaps a dramatic and potentially intractable example of this problem: and, as also noted above, there is limited experience on which to draw from elsewhere. In BiH the laws and procedures weighed heavily in favour of the original owners and allowed the forcible eviction of temporary residents. In Cyprus the proposed removal of these occupants, as envisaged in the Annan Plan, would be rather more humane.

Reflecting on Garlick's contention for BiH, it is not clarification of property rights which is the main issue in Cyprus since rights – in terms of proof of ownership and entitlement – are clear and agreed on the basis of Land Registry records at the two critical dates of 1963 and 1974. The major challenge is how to unlock secondary occupation after such a protracted period of time. There is little comparative evidence to guide policy making in Cyprus on this matter. Again the prognosis is not good.

These issues bear on a seventh challenge - the levels of reinstatement envisaged in the 'Annan Plan'. The agreed levels of territorial adjustment and population return are such that no more than 10% of the pre-war populations overall and no more than 20% in any given municipality or village can go back to their former locations, and the procedures to implement this reinstatement are complex⁵⁷. These proportions contest the formal position, if not the expectation, of many Greek-Cypriots (although often ambiguously expressed and by no means 'homogenised'), that they will return to the north⁵⁸. Moreover the question of secondary occupation further complicates this proposal. Thus, in an ironic reversal of the usual modalities of post-conflict return, in Cyprus it is the (levels of) reinstatement of real property that will determine the scale of return, not the more familiar conditions of overcoming security fears and discrimination, establishing trust in governance and judicial process. Thus for both reasons, many original owners may not be able to return, and *de facto* resolution

56 Gurel and Ozersay 2006.

57 UN 2003:132 Article 16.

58 Bryant 2010 ; Constantinou 2007 ; Papadakis 2005 ; Papadakis et al 2006; Zetter 1999.



of the property issue is that original owners will be forced to accept compensation instead of restitution. To an extent this is what has happened in the Balkans where even 'successful' property restitution has not led to physical return mainly for reasons of insecurity and discrimination: in Croatia only 20-35% of the population has returned to pre-war locations, the proportion in Bosnia is estimated to be between 25-30% of minorities and less than 5% of non-Albanians have returned in Kosovo⁵⁹. Low levels of return in Cyprus would reflect not so much dwindling social expectations but the restrictive rights in restitution of real property envisaged in the 2004 Cyprus settlement.

Land after conflict – the changing dynamics of the Cyprus case

Substantial challenges remain in Cyprus, as indeed in BiH where many RDPs (returning displaced persons) have sold, exchanged, or leased their restituted property to finance resettlement in locations which were not their pre-war places of residence⁶⁰. But in Cyprus, in part related to the status on a comprehensive political and constitutional settlement⁶¹ (and thus a resolution of the property question), and in part driven by the problem of secondary occupation, the dynamics of the property restitution issue are changing. This constitutes significant new constraints to unlocking not only the land and property problem itself but also the wider political settlement of the Cyprus problem. There is a marked contrast in the attitudes of the Greek and Turkish Cypriots.

For the Greek Cypriots, the failure of political processes to resolve the Cyprus problem, and specifically the land issue, has induced them to resort to costly but so far successful legal remedies against Turkey through the both international and domestic courts – the European Court of Human Rights (ECHR), the European Court of Justice (ECJ) and the UK Court of Appeal. Moving from what has been dubbed 'warfare to lawfare', the test cases are very few in number but precedents are emerging from jurisprudence, although these are being challenged on appeal. "International courts have found Turkey liable for blocking Greek-Cypriot access to their properties in the north and imposed substantial penalties"^{62, 63}. At the same time, the courts have also accepted that long term occupants – such as settlers and displaced Cypriots – have rights⁶⁴. Attempts to sell Greek-Cypriot property as holiday homes to British tourists have been definitively rejected by the British Court of Appeal

But the dangers of a case-by-case, 'bottom up' process to tackle the property issues separately from agreement on a comprehensive political and constitutional resolution of the partition of the island are twofold. Leaving matters to the potentially idiosyncratic

59 Development Research Centre 2004:7.

60 Williams 2006.

61 In general terms, there is convergence on the constitutional issues of the make up of a bi-zonal and bi-communal federation and EU relations but four remaining chapters – property, citizenship and immigration, the economy and security - remain unresolved.

62 ICG 2010:i.

63 For example compensation of over €15 million was accorded by the ECHR in October 2010 to 19 Greek-Cypriot plaintiffs for breaches of rights to property. Turkish-Cypriots have also successfully used the ECHR to advance their rights over their abandoned property.

64 See ICG 2010 for an extensive discussion of the legal and jurisprudential evidence.



decisions of the courts creates uncertainty over property rights and entitlements without a clearly agreed framework of norms and principles. Recourse to the courts is creating a “legal and financial quagmire”⁶⁵, which is developing a life of its own. Moreover, through the rulings handed down by the courts, the property question becomes part of a new political rhetoric about rights for successful litigants based on judicial decisions which are detached from, and potentially undermine, a wider framework agreement for the re-constructed state. Indeed, alert to this danger of becoming embroiled in political questions, the European Courts are now requiring that Cypriots rely on domestic remedies, notably the Turkish-Cypriot property commission discussed below.

The Turkish-Cypriot perspective is very different, conditioned by two factors. Given the disproportionately large number of abandoned Greek-Cypriot properties in the north, the concern has been to provide some form of security of occupancy for displaced Turkish-Cypriots and Turkish settlers. At the same time the TRNC Administration has developed responses to claims for restitution and compensation by the Greek-Cypriots promulgated by the European Courts. Thus the Turkish-Cypriot Administration allocated Greek-Cypriot housing and later gave title to the occupants in exchange for ceding claims to their abandoned properties in the south. In effect this has expropriated all Greek-Cypriot property in the north. But in response to the rulings handed down by the ECHR, in 2005 the Turkish Cypriot Administration passed a law for compensation, exchange and restitution of immovable property and revised an earlier incarnation of an Immovable Property Commission (IPC)⁶⁶. The IPC deals with Greek-Cypriot property claims and nearly 800 claims had been made (and 134 settled) by December 2010⁶⁷. Remedies include compensation as well as property swaps for abandoned Turkish-Cypriot property in the south ceded to the Turkish-Cypriot administration. Not surprisingly the RoC Government discourages Greek Cypriots from making claims to the IPC.

The significance of this detailed discussion of emerging legal praxis is as follows. These processes, reveal different interpretations to the meaning of ‘property and home’ outlined earlier in this paper as the two communities confront a political reality effectively shaped by the 1974 invasion, consolidated by the opening of the border in 2003 and reinforced by 37 years of division.

As Bryant⁶⁸ shows, the flow of Greek-Cypriots to view their ‘abandoned’, but now occupied, properties in the north has reinforced in the minds of the Turkish Cypriots that they neither want to ‘go back’ to their abandoned properties in the south, nor cede rights to the Greek-Cypriot ‘owners’ of properties in the north after such a prolonged occupation: recalling the earlier discussion, this offers a different perspective of ‘property as home’ thesis. For the Greek Cypriots the pilgrimage to the houses from which they fled in 1974 has shattered the longed for dream of return which persisted

65 ICG 2010:9.

66 Some Greek-Cypriots have leased and occupied Turkish-Cypriot property but this is within the context of the RoC Government passing a Guardianship law which prevents sale or transfer of abandoned Turkish-Cypriot property in the Greek-Cypriot south without consent of the custodian.

67 ICG 2010:11.

68 Bryant 2010.



so long as they could not cross the 'green line'. Meeting the harsh reality of a defiant denial of the right to return to their homes by the Turkish Cypriots they are reluctantly abandoning the dream that they will 'go back'⁶⁹. Symptomatic of this new reality is the rising number of claims by Greek-Cypriots for compensation and exchange to the IPC, despite disapproval of the RoC Government. De facto property restitution and thus maximalist expectations of mass return are perhaps gradually being abandoned for new modalities for dealing with property rights and entitlements. Such a conclusion for a pragmatic rather than principled solution is reinforced by a recent bi-communal study of attitudes to property restitution and compensation in which dealing with secondary occupation was viewed as the most difficult⁷⁰.

These developments are creating a new framework of challenges which will have to be unlocked as part of a comprehensive political settlement. Ironically, many of the provisions to resolve the land and property question set out in the Annan Plan of 2004 may yet resonate with this new reality, even if the overall architecture of the plan itself has been abandoned. Given the pre-eminence of the land and property issue, these emerging developments may yet break the impasse in achieving a comprehensive solution to the Cyprus problem.

Conclusions

By examining a threefold typology of the land-conflict-restitution nexus, my analysis leads to a number of interrelated conclusions.

First, of the Cyprus case itself, the evidence suggests that the issue of land and property restitution is, relatively speaking, less complex than in many other post-conflict situations. In theory this should provide a more promising basis for resolution. That this has not occurred suggests that the more protracted the failure to resolve these issues the more complex it becomes to find a resolution as new dynamics infuse the situation.

Failure to resolve the issue bears on a second conclusion. The paper has demonstrated how in Cyprus, as elsewhere, property issues are not freestanding but intricately bound up to all three stages of conflict and this conditions the wider political discourse of peace building and constitutional reconstruction. More than this, property restitution or compensation are not just matters of meeting material and physical requirements, but serve wider societal needs and expectations in terms of principles such as righting the wrong of forced displacement and supporting the right to return 'home'.

Third, in the Cyprus case, land-after-conflict is the dominant of the three components of the nexus. Focusing on this phase has served a wider purpose since the international community invests enormous political and material resources in resolving conflict and creating peace. Examining the many dimensions of land-after-conflict, the paper has elaborated the challenges of resolving the issues of property restitution and compensation as parts of the wider process of mediating the transition to sustainable

69 Bryant 2010. These findings are supported by other studies which demonstrate the divergent attitudes to the property question and return (Lordos et al., 2009).

70 Lordos et al., 2009.



peace and buttressing other rights-based pillars and strategies designed to assist the process of establishing justice, reconciliation and durable solutions. Juxtaposing the concepts of human rights and property rights, the paper highlights the significance of land issues and the symbolic and practical significance of resolving land and property questions as part of the more profound aspiration of peace building, reconciliation and return.

Recognised as a crucial component of resolving conflict and embedding peace building processes, dealing with the property question in Cyprus remains a political aspiration. The failure to link these political aspirations to political will demonstrates just how deeply rooted land and property issues are to a solution to the island's division. On the other hand, property restitution of itself cannot create sustainable reconciliation or the possibility of return. Yet, perhaps the most significant lessons from elsewhere, notably in BiH, is the way in which the means for resolving the question of property restitution helped to make return a more impartial 'rule of law' concern in relation to individual rights, rather than a highly charged political process⁷¹. Whether such a transformation is possible in Cyprus still remains very much in the balance after nearly 40 years: but de facto a 'rule of law approach' is becoming embedded.

A salutary lesson is that levels of return in all the Balkan states remain rather low and, to the extent that this might be relevant to Cyprus, this relates to minority returns – a parallel to the case of Turkish Cypriots. Property restitution for majority returns – the case of Greek-Cypriots – was not a feature of the Balkans, or indeed of many other examples of forced population displacement and remixing. In Cyprus, not only has there been an expectation of majority return – a new and unusual phenomenon in itself; but both minority and majority return were contemplated simultaneously. This was new and complex political and institutional territory. Never the less, the emerging jurisprudence combined with the political reality that restitution and thus large-scale return are no longer sustainable aspirations for the Greek Cypriots may mean that 'rule of law' is both taking precedence over and determining the 'rule of politics'.

However, recourse to law by both Greek and Turkish Cypriots, in some senses a default response to the failure of the political processes, is likely to add new complexities. Although now marginalised, the Annan Plan did at least provide a comprehensive approach to resolving the land and property issues; and it remains a valuable baseline for current negotiations taking account of recent developments and innovative thinking that is coming from both sides.

These positives are diminished by the rather larger post-conflict challenge in Cyprus. This is to agree a wider political framework for reconstructing the sovereign state of Cyprus in which (some) population return can be achieved and the modalities of safeguarding land and property rights through restitution or compensation can be accomplished. From this perspective, Cyprus provides ample evidence of the way in which political, legal and institutional contestation over land and property rights are mediated by the wider political challenge of creating a comprehensive and durable political settlement and safeguarding the rights of the displaced population.

71 Williams 2006.



Bibliography

- Amnesty International (2000) *Bosnia-Herzegovina. Waiting on the Doorstep: minority returns to eastern Republika Srpska*, AI Index EUR 63/007/2000 on www.amnesty.org/library/Index
- Alden Wily, L. (2003) *Land Rights in Crisis: Restoring Tenure Security in Afghanistan*, Afghanistan Research and Evaluation Unit (AREU), Issues Papers Series, March 2003, Kabul, AREU.
- Alden Wily, L. (2009) 'Tackling land tenure in the emergency to development transition in post-conflict states: from restitution to reform', Ch 2, pps. 27-50, in Pantuliano, S, (2009) *Uncharted Territory: Land, Conflict and Humanitarian Action*, Rugby, Practical Action Publishing.
- Arcand, J-L., and Pons-Vignon, N. (2003) *Land and Violent Conflict: Exploring Ways of Using Land Policy to Secure Sustained Peace*, Unpublished Issues Paper prepared for OECD Informal Experts Meeting on 'Land and Conflict: What Role for Donors' Paris 19-20th June 2003, OECD Paris, unpublished.
- Bailliat, C. (2000) 'Preventing Internal Displacement: Conciliating Land Conflicts in Guatemala', *Refugee Studies Quarterly*, 19:3, pps. 187-208.
- Barakat, S. (ed), (2005) *After the War is Over: Post Conflict Reconstruction*, London I.B. Taurus.
- Black, R., and Koser K. (1999) *The End of the Refugee Cycle? Refugee Repatriation and Reconstruction*, Oxford, Berghahn Books.
- Betts, A, (2009) *Forced Migration and Global Politics*, Oxford, Wiley-Blackwell.
- Bryant, R. (2010) *The Past in Pieces: Belonging in the New Cyprus*, Philadelphia, University of Pennsylvania Press.
- Chetail, V. (2009) *Post-Conflict Peacebuilding: a Lexicon*, Oxford, Oxford University Press.
- CoHRE (Centre on Housing Rights and Evictions), (2001) *Housing and Property Restitution for Refugees and IDPs – International, Regional and National Legal Resources*, Geneva, CHRE.
- Constantinou, C. M. (2007) 'Aporias of Identity: Bicomunalism, Hybridity and the "Cyprus Problem"', *Cooperation and Conflict*, 42:3, pps. 247–270.
- Deininger, K., and Feder, G. (1998) *Land Institutions and Land Markets*, Policy Research Working Paper 2014, Washington DC, World Bank.
- DFID (Department of International Development) (2000) *Making Markets Work Better for the Poor: A Framework Paper*, London, DFID.
- Development Research Centre on Migration, Globalisation and Poverty (2004) *The Sustainability of 'Voluntary Assisted Return': The Experience of the Balkans*, Tirana, 14th September 2004



www.migrationdrc.org/news/reports/SustainableReturnBalkans.pdf

Duffield, M. (2001) *Global Governance and the New Wars: The Merging of Development and Security*, London, Zed Books.

Durand-Lasserve, A., and Royston, L. (2002) *Holding their Ground: Secure Land Tenure for the Urban Poor in Developing Countries*, London, Earthscan.

EC (European Commission) (1996) *Communication from the Commission on Linking Relief, Rehabilitation, and Development*, COM (96) 153, dated 30.4.96.

Elharawy, S. (2009) 'Between War and Peace: Humanitarian Action in Colombia', Ch 9, pps. 170-189, in Pantuliano, S, (2009) *Uncharted Territory: Land, Conflict and Humanitarian Action*, Rugby, Practical Action Publishing.

Emmerson, M., and Tocci, N. (2002) *Cyprus as Lighthouse of the East Mediterranean: Shaping Re-unification and EU Accession Together*, Brussels, Centre for European Policy Studies.

Fitzpatrick, D. (2002) *Land Policy in Post-conflict Circumstances: Some Lessons from East Timor*, *New Issues in Refugee Research*, UNHCR Working Paper 58, Geneva, UNHCR.

Garlick, M. (2000) 'The Protection of Property Rights: A Partial Solution? The Commission for Real Property Claims for Displaced Persons and Refugees (CRPC) in Bosnia and Herzegovina', in RSQ (Refugee Studies Quarterly) *Housing and Property for Restitution for Returnees*, pps. 64-85.

Galtung, J. (1975) *War and Defence: Essays in Peace Research*, Vol. 1 Copenhagen, Christian Ejlert.

Hatey, M. (2007) *Is the Turkish Cypriot Population Shrinking? An Overview of the Ethno-Demography of Cyprus in the Light of the Preliminary Results of the 2006 Turkish Census*, Nicosia, PRIO Cyprus Centre, Report 2/2007.

Hatay, M. and Bryant, R. (2008) 'The Jasmine Scent of Nicosia: Of Returns, Revolutions, and the Longing for Forbidden Pasts', *Journal of Modern Greek Studies* 26:2, pps. 423-449

Homer-Dixon, T., and Percival, V. (1996) *Environmental Scarcity and Violent Conflict: Briefing Book*. American Association for the Advancement of Science, Toronto.

IDMC (Internal Displacement Monitoring Centre) (2007) *Cyprus: Lack of Political Settlement prevents the Displaced from Fully Enjoying their Property Rights*, Geneva, IDMC.

ICG (International crisis Group) (2010) *Cyprus: Bridging the Property Divide*, *Europe report No 210*, 9 December 2010, Nicosia, Istanbul, Brussels,

www.crisisgroup.org/en/regions/europe/turkey-cyprus/cyprus/21

Jones, G.A. (ed.) (2003) *Urban Land Markets in Transition*, Massachusetts, Lincoln Institute of Land Policy.

Keen, D. (1998) *The Economic Functions of Violence in Civil War*, Oxford, OUP for IISS.



- Kaldor, M. (2001) *New and Old Wars: Organized Violence in a Global Era*, Cambridge: Polity.
- Karouzis, G. (1977) *Land Ownership in Cyprus – past and present*, Nicosia, Cyprus, Strabo.
- Kumar, K. (1997) *Rebuilding Societies after Civil War: Critical Roles for International Assistance*, Boulder Co., Lynne Reinner.
- Leckie, S. (2000) 'Housing and Property Issues for Refugees and Internally Displaced Persons in the Context of Return: Key Considerations for UNHCR Policy and Review', *Refugee Studies Quarterly*, 19:3, pps. 5-63.
- Loescher, G., Betts, A., and Milner, J. (2008) *UNHCR: the Politics and Practice of Refugee Protection in the Twenty First Century*, Abingdon, Routledge.
- Loescher, G, and Milner, J, (2008) *Protracted refugee situations*, London, International Institute for Strategic Studies.
- Lordos, A., Kaymak, E., and Tocci, N., (2009) *A Peoples' Peace in Cyprus: Testing Public Opinion on the Options for a Comprehensive Settlement*, Brussels, Centre for European Policy Studies.
- Macrae, J. (2001) *Aiding Recovery? The Crisis of Aid in Chronic Political Emergencies*, London, Zed Books.
- Malkki, L. (1995) *Purity and Exile*, Chicago, University of Chicago Press.
- Mani, R. (2000) 'The Role of Law and the Rule of Might: Restoring Legal Justice in the Aftermath of Conflict', Chapter 6, pps. 90-111, in Pugh, M. (ed.), *Regeneration of War Torn Societies*, Basingstoke, Macmillan Press.
- Markowitz, F., and Stefansson, A. H. (eds.) (2004) *Homecomings: Unsettling Paths of Return*, Lanham, Lexington Books.
- OECD (2003) *Land, Conflict and Development, What Role for Donors?*, OECD-USAID informal experts seminar Paris, 19-20 June 2003, Paris, OECD.
- Pantuliano, S. (ed.) (2009) *Uncharted Territory: Land, Conflict and Humanitarian Action*, Rugby, Practical Action Publishing.
- Papadakis, Y. (2005) *Echoes from the Dead Zone: Across the Cyprus Divide*, London, I.B. Taurus.
- Papdakis, Y., Peristianis, N. , and Welz, G. (2006) *Divided Cyprus: Modernity, History, and an Island in Conflict*, Bloomington, Indiana University Press
- Patrick, R. A. (1976) *Political Geography and the Cyprus Conflict: 1963–1971*, Edited by Bater J. H. and Preston. R. (eds), Waterloo, University of Waterloo, Department of Geography, Publication Series No. 4.
- Payne, G. (ed.) (2002) *Land, Rights and Innovation: Improving Tenure Security for the Urban Poor*, London, Intermediate Technology Publications.



Pankhurst D. (1999) 'Issues of Justice and Reconciliation in Complex Political Emergencies: Conceptualising Reconciliation, Peace and Justice', *Third World Quarterly*, 20:1 pps. 239-256.

Pirotte, C., Husson, B., and Grunewald, F. (1999) *Responding to Emergencies and Fostering Development: the Dilemmas of Humanitarian Aid*, London, Zed Books.

Pugh, M. (ed.) (2000) *Regeneration of War Torn Societies*, Basingstoke, Macmillan Press.

RSQ (Refugee Studies Quarterly), (2000) *Housing and Property for Restitution for Returnees*, Whole issue of 19:3 for 2000, pps 1-251.

Rosand, E. (1998) 'The Right to Return Under International Law Following Mass Dislocation: The Bosnia Precedent', *Michigan Journal of International Law*, 19, pps. 1091-1139.

Stefansson, A. H., (2004) 'Sarajevo Suffering: Homecoming and the Hierarchy of Homeland Hardship' in Markowitz, F. and Stefansson, A. H. (eds.) *Homecomings: Unsettling Paths of Return*, Lanham, Lexington Books. pps. 54-75

Stewart, F., Fitzgerald, E., et al., (2001) *Conflict and Underdevelopment*, Oxford, OUP.

Taylor, H, (2009) *The meaning of home to Cypriot refugees*, Unpublished PhD Thesis, University of East London.

Telford, J. (2001) UNICEF-DFID Joint Evaluation of UNICEF's Kosovo Emergency Preparedness and Response, Chapter 10, pps. 171-189 in Wood, A., Apthorpe, R., and Borton, J. (eds.), *Evaluating International Humanitarian Action*, London, Zed Books.

Theile, B. (2000) 'Housing and Property Restitution in the Context of the Return of Refugees and Internally Displaced Persons: Developments at the United Nations', *Netherlands Quarterly of Human Rights*, 18:2, pps. 283-288.

United Nations, (1998) (United Nations Sub Commission on the Promotion and Protection of Human Rights), *Housing and Property Restitution in the Context of the Return of Refugees and Internally Displaced Persons*, Sub-Commission Resolution 1998/26 on 26th August 1998, UN Doc E/CN.4/Sub.2/Res/1998/26, New York, United Nations.

United Nations, (UN) (2003) *The Comprehensive Settlement of the Cyprus Problem*, New York, United Nations, February 2003,

www.globalsecurity.org/military/library/report/2004/annan-cyprus-problem_maps_26feb03.pdf

United Nations (2005) *The Pinheiro Principles: UN Principles on Housing and Property Restitution for Refugees and IDPs*, Approved by UN Sub-Commission on the Promotion and Protection of Human Rights under the auspices of the Committee on the Elimination of Racial Discrimination (CERD), August 2005.

UNDP/UNOPS (2004) *Vision for the Core of Nicosia, Final Report*, Nicosia, UNDP/UNOPS Bi-Communal Development Programme.



- UNHCR (1995) *International Colloquium on Post-conflict Reconstruction Strategies, Post-conflict Recovery: UNHCR's Capabilities and Perspectives*, Geneva, UNHCR
- UNHCR (1996) *Rebuilding a War-torn Society: A Review of the UNHCR Reintegration Programme for Mozambican Refugees*, Geneva, UNHCR.
- UNHCR (1997) *State of the World's Refugees: the Humanitarian Dilemma*, Oxford, OUP.
- UNHCR (1998) *Operational Framework for Repatriation and Reintegration Activities in Post-Conflict Situations*, Geneva, UNHCR, Reintegration and Self-reliance Unit PTSS, (Draft), Sept 1998.
- Unruh, J, (2009) 'Humanitarian Approaches to Conflict and Post-conflict Legal Pluralism in Land Tenure', Ch 3, pps, 53-66, in Pantuliano, S, (2009) *Uncharted Territory: Land, Conflict and Humanitarian Action*, Rugby, Practical Action Publishing.
- Warner, D. (1995) 'Voluntary repatriation and the meaning of return home: a critique of liberal mathematics', *Journal of Refugee Studies*, 7:2/3, pps 160-174.
- Williams, R, (2006) 'The Significance of Property Restitution to Sustainable Return in Bosnia and Herzegovina', *International Migration*, 44:3, pps. 40-61.
- World Bank, (2003) *Land Policies for Growth and Poverty Reduction: A World Bank Policy Research*, Report, Washington DC, World Bank.
- Zetter, R. (1992) 'The Greek Cypriot Refugees: Perceptions of Return under Conditions of Protracted Exile', *International Migration Review*, 28:2, pps.307-322.
- Zetter, R. (1992a) 'Refugees and Forced Migrants as Development Resources: the Greek-Cypriot Refugees from 1974', *Cyprus Review*, 4:1, pps.7-39.
- Zetter, R. (1995) Shelter Provision and Settlement Policies for Refugees, Studies on Emergency and Disaster Relief, No. 2, Nordiska Afrikainstitutet and SIDA, Sweden, Uppsala.
- Zetter, R. (1999) 'Reconceptualising the Myth of Return - Protracted Exile and the Greek Cypriot Refugees', *Journal of Refugee Studies*, 12:1, pps. 5-21.
- Zetter, R. (1999a) 'International Perspectives on Refugee Assistance', Chapter 3 in Ager, A. (ed.) *Refugees – Perspectives on the Experience of Forced Migration*, London, Cassell.
- Zetter, R. (2004) 'Returning to Yerusalem': Exile, Return and Oral History', *History Workshop Journal*, No.58 Autumn 2004, pps. 296-306.
- Zetter, R. (2004a) 'Market Enablement and the Urban Sector', Chapter 1 in Zetter, R. and Hamza, M. (eds.), *Market Enablement and the Urban Sector in the Developing World*, London, Earthscan.
- Zetter, R. (2005) 'Land, Housing and the Reconstruction of the Built Environment, Chapter 9, pps. 153-172, in Barakat, S. (ed), *After the War is Over: Post Conflict Reconstruction*, London I.B. Taurus.