

HOUSING, LAND, AND PROPERTY RIGHTS IN POST-CONFLICT UNITED NATIONS AND OTHER PEACE OPERATIONS

For more than sixty years, the blue helmets of United Nations Peacekeeping missions around the world have come to symbolize both the promise and the fragility of the UN. Beset with unresolved conflicts and underfunding, and invariably burdened with sentiments of overexpectation, more times than not UN missions to keep the peace have made a difference. In recent years, frequent allegations of corruption, fraud, and abuse have tarnished the image of the UN as not only overly ineffectual, but as something to be skeptical of, rather than the obvious place to turn for help in resolving contentious challenges that affect many nations.

While the ups and downs of UN operations, and what is now referred to as peace-building, have been extensively analyzed and critiqued, one policy sphere has largely been ignored by analysts: the track record of the UN following conflict in the area of housing, land, and property rights. This volume seeks to fill this void by examining the UN's experience in grappling (or, as the cases examined convincingly show – more often than not, consciously not grappling) with the immense and inevitable housing, land, and property rights crises that emerge in all countries during and after conflict. Chapters exploring UN post-conflict involvement and peace operations in places as diverse as Cambodia, Kosovo, Sudan, East Timor, Rwanda, and Iraq, among others, reveal not only that much more can and should be done to address the massive housing, land, and property crises that often dominate nations emerging from war, but that failing to address these inevitable and complex challenges can leave countries and their citizenry in far worse living conditions than would have otherwise been the case.

Beyond the country studies, a series of detailed and constructive policy prescriptions on how to improve international responses to these challenges are offered to policy-makers intent on ensuring that the housing, land, or property spoils of war so commonly accepted in the past are no longer bargaining chips around a negotiating table, but rather rights that should not and cannot be sacrificed for a larger peace.

Scott Leckie is the director of Displacement Solutions and the founder of the Centre on Housing Rights and Evictions (COHRE). He is an international human rights lawyer, advocate, and researcher with some twenty years of experience in the international protection and promotion of human rights. He has carried out human rights work in more than sixty countries and has worked in expert and advisory capacities with many United Nations and other international agencies, including the Office of the UN High Commissioner for Refugees (UNHCR), the UN Office of the High Commissioner for Human Rights (OHCHR), the UN Habitat Programme, the UN Development Programme (UNDP), and the UN Office for the Coordination of Humanitarian Affairs (OCHA). He has worked in both the UN Mission in Kosovo (UNMIK) and UN Transitional Authority in East Timor (UNTAET). He has written extensively on various human rights issues and lectures regularly at law schools in Switzerland, Thailand, and the United States.

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Housing, Land, and Property Rights in Post-Conflict United Nations and Other Peace Operations

**A COMPARATIVE SURVEY AND PROPOSAL
FOR REFORM**

Edited by

Scott Leckie



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For Pali

Your smile, your joy, your spark, your life

Gifts like no other

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Knut Rosandhaug received his LLM degree in law from the University of Bergen (Norway). In March 2006 he was appointed as the executive director of the Kosovo Property Agency (KPA) and the Kosovo Property Claims Commission (KPCC) after having worked from 2000 with the Housing and Property Directorate (HPD) and the Housing and Property Claims Commission (HPCC) in Kosovo, from 2004 as their joint Executive

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Director. These institutions were mandated by the Special Representative of the Secretary-General of the United Nations (SRSG UNMIK) to receive and process claims on private immovable and residential property respectively after the 1989–1999 conflict in Kosovo. He served from 1998 to 2000 as a legal officer with the NATO Stabilization Force (SFOR) in Bosnia and Herzegovina and the NATO Kosovo Force (KFOR) dealing with property and other human rights issues. He previously worked as an assistant professor of law and a Research Fellow with the Faculty of Law in Bergen (Norway), specializing in law enforcement, supervision of police agencies, and international police cooperation; and with the Armed Forces of Norway.

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Special thanks to my friend and colleague Dan (“HST”) Lewis for his wise words in the Foreword and for a number of great years working together on various HLP issues. Here’s to many more. Further special thanks to John Berger of Cambridge University Press for his patience

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and support for this project, and for an amazing story that only he can tell.
Finally, as always, Harling and Pali provided the light and the way.

Scott Leckie
Bangkok, Thailand

Foreword

The years leading up to the preparation of this volume were some of history's most intriguing and beguiling as far as the following topics are concerned. While still far from the center of most policy- and law-makers' minds, there can be no doubt that housing-, land-, and property-related deficiencies now occupy a place on the international agendas of many agencies and governments involved in helping to bring peace, stability, and reconciliation to countries emerging from conflict. The agonizingly slow recognition that the resolution of land- and property-related disputes following war is one of the cornerstones of any sustainable peace operation has proven frustrating for those charged with unraveling the chaos of displacement and restoring the rights of survivors.

Yet, even with this small but growing recognition that displaced families and survivors of war should not remain perpetually vanquished, and that rights over property usurped through conflict demand some form of restitution, it is not sufficiently embedded in the understanding that any land or property "solution" requires a measured, integrated, and broad-scale engagement. To produce sustainable property restitution, the machinery driving the justice system, the land administration system, land-use planning, and institutional coherence across all three sectors must function, and in many cases requires complete rebuilding.

The case studies presented here describe a vast body of experience in some of the most challenging environs on the planet. The authors describe the successes and failures, the weaknesses and impenetrable bureaucracy characterizing this field. Each of the individual events that made the past decade so unique – including the large-scale return of

refugees and internally displaced persons in Bosnia-Herzegovina, the initial hope and then exasperation on land and justice issues in Afghanistan, and the grappling with customary and formal systems facing the housing, land, and property rights sector throughout Africa – came about not through any spontaneous epiphany from the peace-makers.

Rather, it was through the creative efforts of what was initially a small group of people – which included the editor of this volume, Scott Leckie – who rightly felt (and who have now surely been more than vindicated) that peace without justice, or peace agreements that enshrined a sense of victor's justice, were no longer adequate responses to the horrors and carnage of war.

Since the early 1990s the voices in support of reversing the abuses of war, in particular forced displacement and “ethnic cleansing” through an increasing embrace of broader concepts of the rule of law and more specific notions of housing, land, and property rights, often in the form of restitution rights, have grown steadily louder and more influential. This collection of case studies and the conclusions drawn from them in the last chapter of the book reflect the growing body of knowledge and, simultaneously, the need to strengthen and formalize systemic resources within the international community of peace-makers, and those that follow to build the foundations upon which stability, equity, and prosperity for all are raised.

Dan Lewis

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