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**POST-CONFLICT PROPERTY REPOSSESSION**  
Case study of Bosnia&Herzegovina and Kosovo

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**Abstract**

In this thesis I argue that the post conflict property rights restitution is of paramount significance for rebuilding peace and enabling return and reintegration of displaced population, or making possible

for them to start new life in the place of displacement. Property rights do not only presents a motivation for IDPs to return, but also generate a source of sustainability for building their existence somewhere else, other than their ancestral home, in the process of resettling if they chose so. Also, this approach must be coupled with several other factors, like sense of security, work and economic opportunities and access to basic public services. I argue that the key element in this process is the timely response to destruction and usurpation of property, during and immediately after the armed conflict, on behalf of international actors responsible for process of stabilizing the territory affected by conflict. This response of peacebuilding agents should include undertaking all necessary steps with aim of ensuring timely and fair process of with aim of ensuring timely and fair process of property restitution after the conflict and facilitating the return of IDPs. The fact that the international bodies are usually in charge of re-establishing legal framework and functioning institutions is crucial in that sense. The research relies on the normative method in analyzing domestic legal documents as well the relevant international legal instruments, such as the Pinheiro Principles and the UN Guiding Principles on Internal Displacement. It also employs the comparative legal method in comparing the property restitution process in two comparable post-conflict contexts. The socio-legal method has been also used but primarily in the process of the selection and collection of data. While the main source of data are the legal and policy documents issued by the UN peacebuilding missions established in Bosnia&Herzegovina and in Kosovo after the conflict, the research has also relied on the primary data collected through semi-structural interviews conducted with experts in field of property restitution in the post-conflict environments. In the first part I present basic operational concepts and definitions which are used in the thesis. The second part examines the case of Bosnia and Herzegovina with the emphasis on historical genesis of conflict and focus on crucial institutions in the process of property restitution. Third part follows similar pattern of examining historical genesis of the conflict in Kosovo and the key post-conflict institutions established by the United Nations Mission in Kosovo. In fourth part I make a comparative analysis of the two systems and draw conclusions. I argue that administrative and legal mechanism which were established in Bosnia and Herzegovina and Kosovo, and especially in the first case, are from great importance for dealing with the process of property restitution, which is considered as corner stone for return process and key recall factor of process of ethnic homogenization of territories, as well as promoting rule of law, development and social cohesion on post bellum scene. I will observe shortcomings which reflected inability of access to justice, and the obtained results occasionally casted shadow on basic goals, which are effective property repossession and return to the place of origin. While the critique of the first goal is reduced to judicial and technical aspects of the repossession process, stances on other goal highlight limitations which

overly legalistic approach of the international community set up, who's intervention is not followed by appropriate measure which would enable sustainable return. However, there are also positive consequences of the mentioned interventions, especially in the aspect of adopting recommendations and principles of international law.

The author's intent is not to make new ground breaking discoveries, since there is a great number of expert literature which deals with this issue, but rather to shed more light on developments in the post-conflict Balkans and in this sense contribute to the better understanding of the successes and pitfalls of the contemporary peacebuilding practices.

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## Chapter One

### Introduction

During the past several decades, we have been witnessing a growing attention being given to the problem of internal displacement and the introduction of new international soft-law instruments tackling the problem of internal displacement. However, the number of internally displaced persons (IDPs) has escalated in the last couple of decades and the capacity of the international community and the local actors to tackle their problems have not yet yielded reassuring results. How to explain this? Internal Displacement Monitoring Centre (IDMC), in their report state that ‘‘there were 28.8 million IDPs around the world in 2012, up from 2011. The global number of IDPs has steadily increased from a total of around 17 million in 1997’’<sup>1</sup>

‘‘From the early 1980s onwards, advocates such as Francis Deng and Roberta Cohen led a vigorous campaign to highlight the plight of the world’s internally displaced persons (IDPs) and to ensure that the international community assumed greater responsibility for their protection. The campaign was in most respects an enormous success, leading eventually to the establishment of the Guiding Principles on Internal Displacement, the appointment of a Special Representative of the UN Secretary-General for Internally Displaced Persons and eventually the introduction of the Cluster

<sup>1</sup> Internally Displaced People Figures, UNHCR at <http://www.unhcr.org/pages/49c3646c23.html>.