POST-CONFLICT PROPERTY RESTITUTION IN BOSNIA AND HERZEGOVINA: THE ROLE OF INTERNATIONAL COMMUNITY

Mari Katayanagi, PhD
Research Fellow
JICA Research Institute
Background of my research

- JICA Research Institute’s project: *Land and Property Problems in Post-conflict State-building and Economic Development*
- 8 case studies in Asia, Africa, Latin America and Europe – land/property management in conflict-affected setting

➢ What are the measures for the positive peace?
Consequences of armed conflict

- 3.5 years of war → approx. 1.2 million refugees & one million IDPs
- Ethnic cleansing, war crimes, crimes against humanity and genocide
- Flows of displaced persons in various directions over variable distances & multiple relocations
- Ethnically divided areas
Bosnia and Herzegovina after the Peace Agreement

Three constituent people: Bosniacs, Croats and Serbs

Green: Federation of Bosnia and Herzegovina (mainly inhabited by Bosniacs and Croats)

Yellow: Republika Srpska (mostly Serb entity)

Points of today’s presentation

- In Bosnia and Herzegovina, the international community was heavily involved in restituting property to people who were forcibly displaced during the armed conflict in the 1990s.
- Is this generally applicable intervention? – No.
- An important lesson: the international community may play a valuable role in adjudicating property rights in a divided post-conflict society.
- Was there anything else that the international community could do, regarding land use? – Yes.
Displacement during the armed conflict
By Philippe Rekacewicz, UNEP/GRID-Arendal
Ethnic make-up of Bosnia-Hercegovina, before and after the war

1991

1998

Boundary line between Bosniak-Croat Federation and the Bosnian Serb Republic

- Predominantly Croat
- Predominantly Serb
- Predominantly Bosniak
- Bosniak-Croat mixed

Source: Office of the High Representative
General Framework Agreement for Peace (Dayton Peace Agreement)

• ‘All refugees and displaced persons have the right freely to return to their homes of origin’.
  (Art. II(5) of Annex 4 and Art. I(1) of Annex 7)

• ‘Right to have restored to them property of which they were deprived in the course of hostilities since 1991’

• ‘The early return of refugees and displaced persons is an important objective of the settlement of the conflict in Bosnia and Herzegovina’. 
What were the obstacles to return regarding housing?

<table>
<thead>
<tr>
<th>Destroyed property</th>
<th>Occupied property</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Need reconstruction.</td>
<td>• The local authorities allocated vacant houses/apartments to incoming IDPs.</td>
</tr>
<tr>
<td></td>
<td>• Need to vacate the house, either through voluntary departure or eviction of the occupants.</td>
</tr>
</tbody>
</table>
Established the **Commission for Real Property Claims of Refugees and Displaced Persons (CRPC)**

**Bonn Power of the High Representative**
- amend or repeal legislation, or impose a new law
- dismiss elected or public officials
  - Introduced a unified rule: *primacy of pre-war owners or occupancy right holders*
Intervention by International Community 2

- **Property Law Implementation Plan (PLIP)** by OHR, UNHCR, OSCE, UN International Police Task Force and CRPC
- **Double occupancy commissions** consisting of international monitors and local housing authorities
- Eviction monitoring by International Police Task Force (IPTF)
- PLIP statistics
- Public information campaign
Results of interventions

- Over 90% of property restituted.
- Refugees and IDPs have not necessarily returned.
  (Sustainable return requires more than housing, including security, and economic and social conditions.)
- Trust in rule of law (in the area of property) has been restored.

Meanwhile …

Local authorities allocated land to IDPs – efforts to consolidate the post-conflict ethnic structure at the local level.
Property and post-conflict development
Agriculture

- Features of the socialist system
  - Limited size of private farm
  - Basic agricultural products from State farm
  - Few professional farmers due to the industrialisation policy

- Lack of experiences and skills in farming
  - Lack of public support system for private farming
  + Fragmented land plots – no mechanisation
JICA-RI’s original survey in Canton Sarajevo

Land use

• 64%: public property
• 35%: private property
• 0.1%: religious community’s property
• 1.4%: no ownership data

Plot size

- 31.1%: <0.1ha
- 60.7%: 0.1-0.5ha
- 5.1%: 0.5-1.0ha
- 2.5%: 1.0-5.0ha
- 0.4%: 5.0ha<
Possible measures for agricultural development

• Consolidation of land
• Privatisation of State farms
• Development of agricultural processing industry
World Bank’s on-going project on land registration

- Digitalisation of land records in selected areas (based on economic importance)
- Speed and transparency in providing registration record
- WB’s expectation: the accurate registration will enhance land market activities and investment
- Has dissemination been bearing fruit?
Conclusion on property restitution

• The international community’s intervention in Bosnia and Herzegovina for property restitution - an unprecedented success

• Exceptional conditions:
  a) a significant amount of human and financial resources; and
  b) the power of the High Representative

• Impartiality of the international community – an asset in solving property problems, in a post-conflict setting, particularly in a divided society
Conclusion on land management

• There are measures which may contribute to the positive peace of Bosnia and Herzegovina in the sphere of land management.
  (Dilemma: lack of State initiative)
• Modern land registration may support economic development in the long-term.
• More effective land use, particularly in the agricultural sector, may enhance improvement of people’s life in the short term.
Thank you!