

Introduction by Scott Leckie, Guest Editor

Issues around restitution of housing and property to refugees and the internally displaced wishing to return to their original homes have attracted increasing attention in recent years.

There has been a growing realization that resolving housing and property claims forms a key element of any successful repatriation, and a determination that ethnic cleansing, arbitrary displacement and unlawful secondary occupation of homes must be reversed and not allowed to take on features of permanence. As property disputes continue to confound policy makers in Bosnia, Kosovo, Georgia, Rwanda, Palestine, Guatemala, East Timor, Azerbaijan and elsewhere, housing and property restitution has emerged as one of the most important components of post-conflict reconciliation and rehabilitation.

Both peace agreements and international human rights standards are increasingly explicit about the right to restitution and the right of refugees and IDPs to return to original homes. The UN Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1998/26 clearly reaffirms the right of all refugees and IDPs 'to return to their homes and places of habitual residence in their country and/or place of origin, should they so wish'.

Increased attention to restitution rights has not come about because the process is an easy one. Far from it. Few procedures are more complex, subject to controversy and difficult to implement than ensuring that those who have a right to return to their original homes are actually allowed to do so. Even when conditions may be secure and stable enough for return to occur, many millions of people continue to be prevented from returning to their homes of origin, recovering property or receiving compensation.

Despite these difficulties, making a reality of restitution rights is so fundamental that one could argue that 'conditions of safe and dignified return' cannot exist unless appropriate laws, procedures and

enforcement mechanisms are firmly in place in countries of return. There are compelling grounds for asserting that organized repatriation efforts should not be undertaken unless clear legal and procedural safeguards are in place to ensure returnees either recover their property or are compensated. While care must be taken to ensure that property rights are not maliciously 'prioritized' to provide a smokescreen for *refoulement* or other human rights violations, there is little to suggest that sidelining or ignoring restitution will produce harmonious societies based on the rule of law, human rights and justice.

Heed should be taken of the experiences of countries such as Tajikistan, South Africa, Germany, Latvia, Estonia and others where restitution programmes have been reasonably successful. Establishment of institutions such as the Commission on Real Property Claims (CRPC) in Bosnia, the Housing and Property Directorate (HPD) in Kosovo and the Land Claims Court in South Africa mark a new departure.

Difficulties associated with initiatives in the Balkans, the Caucasus, Cambodia, Guatemala and elsewhere should not be used to undermine the importance of restitution but seen as graphic reminders of the importance of preventing the circumstances leading to forced displacement.

This issue of *Forced Migration Review* deals with many of the difficult issues arising from schemes to restore property to returning refugees. **Catherine Phuong** outlines the groundbreaking work of the CRPC in Bosnia and Herzegovina and the difficulties in implementing restitution rights set out in the Dayton Accord. My article looks at the major housing and property challenges facing the people of Kosovo while **Guy Hovey** explores how

housing rehabilitation and return of minorities in Serb-controlled Bosnia has been facilitated by international agencies.

Cecilia Baillet examines some of the inadequacies of the Guatemalan return process, particularly the land reform programme for returning IDPs, and suggests that much more should have been done to secure rights to restitution and land for returnees. **Ratan Gazmere** - himself a refugee from Bhutan now living in eastern Nepal - writes about an innovative self-help project seeking to promote eventual restitution and return. **Leilani Farha** outlines the results of a meeting held in Rwanda in 1998 looking at how customary and formal laws further complicate housing and property restitution claims of women around the world. **Jon Bennett** looks at the dilemmas surrounding forced relocation policies in Uganda, Rwanda and Burundi, while **Georges Assaf** and **Rana El-Fil** explore the politicization of the IDP question in Lebanon. And finally, in our regular GIDP Project section, **Bjorn Pettersson** highlights some IDP land issues in Colombia.

It is hoped that this issue of *Forced Migration Review* will contribute to promoting discussion in the international refugee and IDP community about housing and property issues and highlight the importance of protecting the housing and property rights of all returnees, wherever they may be.

