



Ukraine's tenurial tangle: Housing, land and property restitution in the Russian war

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Abstract

The severity of the population dislocation and destruction of housing, land and property (HLP) in the Ukraine war has driven efforts for starting reconstruction planning prior to the war's end. This comes with the realization that recovery will entail considerable preparation, including efforts at using seized Russian assets to finance it. Engaging in HLP restitution and compensation will be a primary recovery challenge, with the Ukrainian government moving forward with legislation for facilitating this. However, the government's current approach to processing what will be millions of HLP claims for restitution and compensation faces a daunting challenge. Housing, land and property rights prior to the war comprised a dense tangle of confusion, corruption, and inadequate documentation; such that attempting to untangle each claim on a case-by-case basis as currently planned is highly problematic and risks instability. This article describes this tangle as five categories of problems: (1) the post-Soviet transition, (2) rule of law problems, (3) administrative tangles, (4) corruption, and (5) war-related issues. The article then recommends that the government and international community pursue a 'mass claims and transitional justice' approach to large-scale HLP restitution which is aligned with international best practice and able to supersede the tenurial tangle.

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INTRODUCTION

A primary result of the horrific war underway in Ukraine is the forced displacement of over 14 million people from their housing, land and property (HLP)—now the largest such dislocation in the world (Karasapan, 2022; UNPPA, 2022). Facilitating the restitution, compensation, and reconstruction of HLP for this population will be a primary challenge for Ukraine and the international community. Whether refugees and internally displaced persons (IDPs) choose (or are able) to return or not, their HLP claims will need to be addressed under both Ukrainian and international law (including human rights law), and to forestall the emergence of future population-wide grievances and associated socio-political problems. These claims will assert a strong demand on the over 300 billion USD in Russian assets currently held by the West, and there is some urgency in making this a reality. This is because (1) very large sums will be needed for restitution, compensation, and reconstruction, with time required to organize the claims process and financing; (2) there will be considerable reluctance by Western donor countries to contribute large sums of money for something for which they believe Russia should be held to account; and, (3) the process for confiscation and repurposing Russian assets for Ukraine's recovery is already underway in Canada (Karadeglija, 2022; Robertson, 2022), and likely to start quite soon elsewhere (e.g., GAC, 2022; IWGRS, 2022; Redress, 2022; Revill & Koltowitz, 2022; SEMA, 2022; Shmyhal, 2022).

The Ukrainian Prime Minister has emphasized the importance of planning for recovery before the war is over and, to this end, has already started discussions with Western countries regarding use of frozen Russian funds (Shmyhal, 2022). A recent donor conference in Berlin in October of 2022 also noted the importance of preparing for reconstruction while the fighting continues (Economist, 2022). And the UN General Assembly in November 2022 voted to start the process of preparing international mechanisms for claims as soon as possible, including for HLP (Giorgetti et al., 2022a)—with some UN agencies already engaged in HLP recovery planning (FAO, 2022; IOM, 2022). As well, the fieldwork for this study found a significant desire among Ukrainians to start now on the restitution (defined here to include compensation) of HLP. Early preparation for large-scale restitution and the strong role of the international community is not only necessary for administrative and technical readiness, but signals to all actors the scale, complexity and importance of the problem, the money required, and the priority to which perpetrators of HLP forced dislocation, damage and destruction will need to be held to account (e.g., Becker et al., 2022; FAO, 2022; Giorgetti et al., 2022b). The Economist (2022) argues that such an endeavor would also serve as a security guarantee to deter future invaders. Support and involvement of Ukraine's allies in this effort will be critical and, “a successful, settled plan for the war and its aftermath is the best available assurance of continued backing” (Economist, 2022).

Ukraine possesses important advantages critical to conducting a large-scale HLP restitution process compared to other war-affected states. The country is digitally sophisticated, and the current government is serious-minded with impressive technical abilities and significant political will with regard to HLP restitution. In addition, importantly, the government has recently passed legislation articulating eligibility for compensation within a restitution process for damaged and destroyed HLP (VRU, 2023). However, the country faces a particularly daunting challenge to actually carrying out HLP restitution. This challenge comprises two parts, beginning with the country's extremely complicated, chaotic, and confused tangle of tenurial relations and situations that existed prior to Russia's invasion in February 2022. This tangle constitutes a critically problematic context into which the restitution claims process will be inserted. The second part concerns the current approach in the Compensation Law to



process all HLP claims through forms of existing procedural law, thereby treating claims on a case-by-case basis with evidentiary priority placed narrowly on the best documentary evidence (VRU, 2023). Given the number and type of convoluted, confused, and corrupt tenurial situations that will be forthcoming from the 14 million displaced, plus those who remained behind in damaged and destroyed HLP together with the reality that many (and likely most) claimants will not have the proper evidence as described in the law, such an approach faces failure. The existence and nature of this tangle will make the 'case-by-case/narrow evidence rules' approach particularly vulnerable to collapse, and potentially quite dangerous. This is because such an approach would either have to untangle the claims one by one, or dismiss them from the claims process. Both options risk causing social unrest. The former due to the excessively long wait time (decades) for this untangling to take place, and the latter due to the grievances of large numbers of claimants at being excluded from the process. Experience from other countries has shown the emergence of these difficulties to be a very serious concern (e.g., Fischbach, 2006; Haersolte-van, 2006; Unruh et al., 2017; Zimmerman, 2015). This article describes some of the more problematic categories of the tangle in an attempt to highlight the difficulty of applying the 'case-by-case/narrow evidence rules' strategy as currently proposed; and strongly urges that the claims process be aligned with international best practice using a 'mass claims/transitional justice' approach able to supersede this tangle. Subsequent to a description of the information gathering, this article unpacks Ukraine's overall tenurial tangle into five categories: (1) the post-Soviet transition, (2) rule of law problems, (3) administrative tangles, (4) corruption, and (5) war-related issues. This is then followed by a brief concluding comment on the international best practice approach able to supersede this tangle, and quickly and effectively manage HLP restitution.

INFORMATION GATHERING

Primary fieldwork for this article took place in Ukraine in August and November of 2022, in Kyiv, Bucha, Borodyanka and Kosarovychi; with the latter three having suffered heavy HLP damage and destruction by Russian forces. This fieldwork comprised key informant interviews numbering 154 persons, including: members of civil society impacted by the war, legal professionals, national and international NGOs (distinct from civil society), IT workers, UN agencies (International Organization for Migration, UN Development Programme, UN Human Rights Office), the Ukrainian military, members of private business, Ukrainian and international academics, and government personnel with the Ministry of Justice, Office of the Commissioner for Gender Equality Policy, National Social Service of Ukraine, Office of the Deputy Prime Minister for European and Euro-Atlantic Integration, Office of the Prosecutor General, Ministry of Regional Development, Ministry of Social Policy, and the Office of the Parliamentary Commissioner for Human Rights. As well local clergy, and HLP experts familiar with Ukraine, restitution, mass claims, transitional justice, and international human rights contributed to the fieldwork.

Earlier research was conducted in Warsaw and Lodz, Poland in May of 2022, comprising work with 31 persons, primarily country delegates to the Organization for Security and Cooperation in Europe (OSCE). This included OSCE representatives from Ukraine, Poland, Romania, the Czech Republic and Moldova among others along with personnel from the office of the OSCE Special Representative on Combatting Corruption, and the OSCE Economic and Environmental Activities Office. In addition Ukrainian refugees and Polish academics involved with Ukraine were consulted.

An additional 204 persons communicated in online discussions regarding Ukrainian HLP from April 2022 to January 2023. These included personnel from Ukrainian: legal NGOs, IT workers, lawyers, academics, the State Geo-Cadastre, the Association of Cities of Ukraine, reconstruction companies, and the Ukrainian Business Ombudsman Council. In addition, personnel from: international NGOs, international donor organizations, international experts on HLP mass claims and transitional justice, UN agencies, and the Canadian government effort working on repurposing Russian assets were consulted. As well the relevant academic, international organization, NGO, diplomatic, government, and journalism literature was reviewed.

THE TENURIAL TANGLE

Ukraine's many convoluted, chaotic and unwieldy HLP relationships and situations affects most of the population. A large-scale war-induced forced dislocation in such a scenario creates an enormous challenge for an effective restitution process. In an HLP context the country continues to struggle with its post-Soviet transition, rule of law and administrative deficits, and corruption—in an array of combinations. This is in addition to the effects of the war itself on HLP. Attempting to assess and adjudicate HLP claims and implement remedies individually for each of the massive number of claims that will emerge in such a tangled tenurial landscape, within a practical notion of timeframe and justice, is highly problematic with the potential to lay the groundwork for future socio-political difficulties and economic dysfunction. The majority of this article describes this landscape as categories of problems.

Post-Soviet transition

Ukraine's ongoing property rights transition away from the Soviet model has been prolonged, disordered, heavily corrupt, and subject to a variety of late-Soviet and post-Soviet influences. Post-Soviet land reform in Ukraine is a controversial and political issue, with the large-scale reform launched in 1991 still incomplete (LT/KSE/GoU, 2021). The system of state HLP rights registration was repeatedly reformed (Nizalov, 2022), resulting in confusion over rules and procedures. And fraught discussions were held for 28 years prior to passage of the recent Land Law (PoU, 2020). As a result there are disagreements, political claims and confusion regarding how much HLP the state still has control over, how much has been given to local communities, and how much has been privatized (PoU, 2020). Before the current war, the land privatization process was expected to be underway until 2025 with the caveat that if owners of land shares have not registered their ownership by then, they will have the land in question transferred to communal property (Zemko et al., 2021). Politicians from the Soviet era are still quite active in the land sector, and are influential in preventing the complete privatization of HLP and the completion of the overall land reform (PoU, 2020). This has allowed a number of late-Soviet features of governance to continue to have influence, such as the role of the 'personalist' element and patronage networks in post-Soviet politics, whereby personal relationships and loyalty cut across boundaries of organization and were more important than institutions (Fortescue, 2010). Markus (2015) describes the pervasiveness of 'agent predation' by state actors on property rights in post-Soviet Russia and Ukraine. As well the influence of the *nomenklatura* (political elite), particularly at the local level, extended into the early post-Soviet period. This had implications for privileged access to the property market, especially

as political position became less of a guarantee of privileges and private property access became more important for assuring advantages (Kryshtanovskaya & White, 1996). Likewise Winięcki (1990) observed that purposefully muddled property rights facilitated the ongoing interference in the economic sphere during the late-Soviet period, in order to maximize rents for the elite.

A further complication involving the transition was the large-scale abandonment of agricultural land following independence and its subsequent re-cultivation beginning in about 2007 (Smaliychuk et al., 2016) which raises questions of who really owns the previously abandoned land and how this would intersect with restitution claims. This is regarded as such a problem that the UN Food and Agriculture Organization has highlighted land abandonment as a priority its current postwar 'build back better' approach to land tenure in Ukraine (FAO, 2022).

A primary transition feature is the moratorium on selling agricultural land due to fear that this would result in the large-scale concentration of land into a few hands to the detriment of the country's rural population (URDN/EA, 2020). Instituted in 2001, the moratorium is not set to be lifted completely until 2024 (Nizalov, 2019). The moratorium encompassed 38.5 million hectares of agricultural land (66 percent of the national territory), and prevented almost 7 million citizens from officially selling their property (LT/KSE/GoU, 2021). As a result, actual sales have gone on informally without the needed documentation to officialize transactions. One researcher found that in a couple of regions (Ivano-Frankivsk, Vinnytsia and Cherkasy) local people were unaware of the existence of the moratorium, believing instead that legitimate sales were taking place (Amosov, 2019).

The moratorium has meant that most private agricultural land became leased out (Nizalov, 2019), which concentrated holdings and highlights the complications regarding who should be compensated and for what as a result of the current forced dislocation, damage and destruction. Such leasing arrangements, many of which are long term, include the prerogative of the lessee to sell their right to use the land to others without the owners consent thus creating confusion as to who has obtained rights from whom (Amosov, 2019), and who has rights to restitution. In addition, because of a seven year minimum land lease rule, the many shorter term leases stay informal (Nizalov, 2019) which the Land Code states are legally invalid (BVR, 2002). What results then are broad avenues for corruption, illegal informality, and confusion over who has what rights (Leshchenko, 2021; Zemko et al., 2021). This exists within a shadow market of tangled land transactions and the emergence of a parallel informal structure and set of rules for such lands (Kostyashkin et al., 2020; Yuliia et al., 2022). While the moratorium is set to end in a stepwise fashion, the shadow market has already left a legacy of corruption, non-transparency in transactions, confusion and informality in documentation (Yuliia et al., 2022). A land reform launched in July 2021 was intended to combat corruption in the agricultural land sector and get rid of the shadow market (Leshchenko, 2021)—with the outcome of its six months of operation before the start of the war largely unknown.

In 2021 the moratorium was lifted for some types of transactions such that at the onset of the war, the legal property markets for agricultural land were still emerging (FAO, 2022). How long-term leasing arrangements (and their subleasing), the informality of short-term leases, and previous illegal sales will intersect with the new ability (as of 2021) to buy and sell land, in a context of mass forced displacement and then attempts at large-scale restitution is unknown, but likely well tangled. Attempting to make sense of all these interactions on a 'case-by-case/narrow evidence rules' basis in order to decide who has legitimate compensatable and restorative rights to what, quickly, at scale, and in a way that does not cause social agitation, would be extremely daunting for any country in the best of circumstances.

Meanwhile civil society itself is still in transition from Soviet times regarding the HLP rights aspects of holding leaders to account, activism, participation in public issues, responsibility, consensus, decision-making, following through with policies, how to pursue goals and objectives, negotiation, and selecting competent people for political office. Moreover, there is the ongoing tendency to ask the state for money and services as opposed to pursuing one's rights (Zemko et al., 2021). There are ongoing misperceptions regarding the state's role in the protection and regulation of HLP rights, and struggles with ideas of rule-following with regard to property rights, particularly as perceptions and assertions of the *nomenklatura* linger (Ben, 2021; Kryshchanovskaya & White, 1996). Such civil society understandings and attitudes have complicated post-Soviet HLP market formation in the country, confounding the effectiveness of reforms (Zemko et al., 2021). As a result ideas and attitudes about property and how it is owned, transacted, documented and inherited, along with the role of the state, are highly varied across the country, and will influence conceptions about who has rights to what HLP in a restitution context. This is not to say that certain features of civil society have not been effective in countering Russian aggression, they have; however, the discussion here focuses on the HLP aspects of civil society.

Rule of law problems

While wars always cause legal governance challenges for HLP, more formidable in Ukraine's case are a set of prewar rule of law problems that have created a highly convoluted set of tenurial situations. Although recent laws regarding HLP rights in Ukraine can be well written and well intentioned, there have been significant problems in their implementation, with law enforcement often violating the property rights they are supposed to protect, at times depriving owners of their HLP (Shcherbatyuk, 2014). Dolgoplova et al. (2020) assess that the Ukrainian state does not effectively protect property rights, with significant weakness in protections against unlawful takeover. Prior to the war, Ukraine in 2021 occupied 105th place out of 129 countries in the International Property Rights Index, a measure of the rights of citizens to possess and protect private property (PRA, 2022). And several sources note significant problems with tenure insecurity prior to the war (Dolgoplova et al., 2020; Kravtsov, 2019; LandLinks, 2017; Shcherbatyuk, 2014). Meanwhile, a study by the Norwegian Refugee Council revealed a significant lack of awareness of HLP rights, policies, and laws among both officials and IDPs (NRC, 2016a). The fieldwork revealed a lack of awareness among local populations and government officials regarding what constitutes viable evidence for HLP claims. Kirkegaard et al. (2022) note that, “[p]olitical and judicial obstructionism in Ukraine have repeatedly delayed the adoption and implementation of rule of law reforms and impacted efforts to combat corruption;” and argue that use of reconstruction funds should be contingent on Ukraine implementing rule of law reforms. More broadly Romhani (2022) indicates that, “shortcomings in the rule of law have been the most important problem in the Euro-Atlantic integration of Ukraine ever since its independence.”

Within this difficult context, how the court system interacted with many HLP issues prior to the war is particularly problematic. By some measures the court system is still being developed after Soviet times. Court cases regarding protection of property rights are among the largest categories of civil cases, with lengthy times required for resolution. Prior to the war an average of 20 months was needed to complete the process for a single claim (NRC, 2018). Furthermore, the way the courts have handled land disputes has undermined confidence in the judicial system; and, significant concerns exist about the competence, independence, and impartiality of

the court system in the context of HLP rights (LandLinks, 2017). The implementation of HLP court decisions is regarded as ineffective, uncertain, and ambiguous resulting in a low level of public trust. In some cases, trust in the courts to adequately handle HLP rights problems was so low that property owners appealed to the European Court of Human Rights which decided, in one important case, that the Convention for the Protection of Human Rights and Fundamental Freedoms had been violated (Dolgopolova et al., 2020; Kravtsov, 2019). This combination of large numbers of unresolved cases, dysfunction and distrust, is what was in-place when the war started and 14 million people became displaced. That the new Compensation Law depends on the (now war-degraded) capacity of its court system, to handle enormous volumes of HLP claims one by one in a chaotic socio-political environment with no plans for treating cases with insufficient formal evidence (Nizalov, 2022), does not bode well for success.

How the country sought to manage HLP restitution in the eastern occupied oblasts prior to the current war (NRC, 2018) stands as a lesson for the national effort. Apart from the distrust and dysfunction involved in the process, many claimants were unable to access the necessary documentary evidence needed to pursue their cases (DRC, 2015). For those fleeing the occupied areas, it was common to dispose of identity-based documents due to fear that Russian checkpoints would find them and act nefariously against the document holder, kin, or home areas (Davis, 2022). Because the restitution process did not allow for alternative forms of evidence, many claimants in the eastern dislocations were excluded from the prospect of compensation. As well, the financial burden of an HLP court proceeding was frequently prohibitive for claimants. For instance, the requirement that each HLP in question needed to be assessed was impossible as the area was occupied by Russian forces or pro-Russian militias and contaminated with landmines. In addition, an extremely short three year statute of limitations meant many claimants lost the opportunity to pursue their claims (NRC, 2018). A particular problem was the reluctance of the majority of claimants to transfer their property rights to the state in exchange for compensation as per the stated procedure (and also present in the current Compensation Law), resulting in many cases being dismissed. This reluctance was due to skepticism about actually receiving compensation or adequate compensation subsequent to transferring their HLP rights (NRC, 2018). Claims efforts in the east revealed a limited understanding of HLP rights and procedures among the authorities, a very unwieldy bureaucracy, and a lack of clear accountability or responsibility within government administration, along with a lack of understanding as to the extent of the problem (NRC, 2016b). By 2017 only 1% of all potential claims had been heard in court, with the success rate of these being quite low. As a result, confidence in the legal system to address HLP restitution claims in the east was extremely low and led to a wave of claims applications to the European Court of Human Rights (Kuznetsova et al., 2018). The failure of the compensation programme in the east will likely have repercussions on trust in the national HLP restitution effort.

Additional rule of law tangles include: complications involving inheritance, undocumented populations, and confiscation of Russian HLP within Ukraine. Sorting out inheritance claims, particularly for widows claiming HLP registered in a deceased spouse's name requires (in the current Compensation Law) the resolution of the inheritance claims before a restitution claim can be submitted. NRC (2016b) found this to be a significant problem in the earlier conflict in the east, involving a slow and convoluted legal process, lack of awareness among inheritors as to the location and type of documentation needed to resolve inheritance claims, and loss of paper documents. Also of low ability to participate in the envisioned restitution process, are populations of Roma—estimated at over 400,000 (REYN, 2022)—and other systemically undocumented populations. If Roma individuals are born in Ukraine then they are citizens,

however many Roma do not have births registered and so cannot prove they were born in the country. Such marginalized populations, particularly those who are poor, unaware and tenure insecure will face the biggest challenges accessing a case-by-case restitution process in a court system, particularly if there are logistical, educational, and financial obstacles. And finally, a recent Ukrainian law allowing for the confiscation of HLP owned by the Russian government or its citizens in Ukraine, without any compensation and in contravention of international law (Rubryka, 2022), will complicate the international legality of the postwar restitution process.

Administrative tangles

There is a significant administrative aspect to Ukraine's tenurial tangle, comprising HLP registration, documentation, and cadastres. Flaws in the registration process (Dolgopolova et al., 2020; Kravtsov, 2019) have resulted in systemic manipulation and fraud, particularly involving dishonest notaries (Shcherbatyuk, 2014). Nizalov et al. (2022) describe how the overall state registration system for HLP was only 40 percent complete at the onset of the war (lower in the eastern occupied areas), and that the majority of property rights obtained prior to 2013 are not included. Meanwhile the electronic version of the State Register only includes information about HLP on the initiative of the owner as of January 1, 2013 (Ben, 2021). RIEL (2021) notes that the ongoing lack of formality in the State Registry creates conflicts and problems even at the neighborhood level. More broadly there are significant difficulties in tracking changes of HLP ownership, with potential buyers frequently unable to obtain such information on their own (RIEL, 2021). This means that in most cases a prospective buyer needs to consult a number of poorly administered registers in an attempt to verify the true owner (Nitsevych, n.d.). As well there is no registration of HLP in apartment buildings, only documents with the address of the building. For apartment dwellers most only have paper documents of varied relevancy and are on a Soviet era 'technical list' as part of a 'technical inventory.' During the fieldwork one source that studies the issue noted that the lack of registration for apartment dwellers is possibly the weakest part of the national property rights system.

Lack of relevant HLP documentation is a significant problem, and often results in several owners claiming the same property (Shcherbatyuk, 2014). In rural villages, many have no HLP documents at all. To obtain them owners would have to go to court with witnesses, tax bills, and other ancillary documents. The fieldwork found that very often rural HLP ownership was established three generations ago and has unclear or nonexistent documentation. In addition, the boundary demarcation of towns, villages and other settlements is incomplete, with only 0.17 percent of these having formally registered boundaries as of 2015; with this percentage thought to still be quite low at the outset of the war. This complicates the legitimacy of decisions about land allocation and dispute resolution made by local councils and is an ongoing source of land conflicts in several regions (LandLinks, 2017). Lack of HLP documentation is a particular problem for renters, with 43% in one study indicating they are tenure insecure as a result, and fear being evicted by the owner (Prindex, 2022). Fieldwork in Ukraine finds that renting is for the most part informal, with even formal renting having a significant informal component. This informality, particularly in urban settings, is associated with the chronic shortage of housing supply across the whole country prior to the war; with ongoing problems of affordability and deteriorating residential infrastructure leading to an increase in people living in informal arrangements (Mamo, 2021; NRC, 2016a; Wynveen & Chantefort, 2016).

Meanwhile digitization of paper HLP documentation was variable across the country at the onset of the war, and particularly slow in rural areas. The risks associated with paper only HLP documentation is of course their destruction, loss, and falsification. In most villages and small towns the documentation that does exist is still primarily in paper form. And only recently were courts beginning to digitize court proceedings. In rural settlements if owners/occupants do have a paper HLP document, the only copy is kept with the Local Council. If someone loses their copy or it is destroyed during the war, and the Local Council is uncooperative, corrupt or disorganized (frequently the case), then there can be real difficulty.

The State Land Cadastre struggles with a number of problems including data quality, accuracy, and public accessibility, and there is disagreement regarding the cadastre's efficacy (LT/KSE/GoU, 2021; Popov, 2019). As in other post-Soviet countries, the cadastre is a cadastre of land only (surface area), and does not include HLP for multi-story buildings. For a single house on its own parcel of land and in rural areas there can be congruence between the HLP owner, the land owner and the cadastre, but in urban areas, or on parcels where multiple families live, there will not be. While Yuliia et al. (2022) note that the cadastre is 71% complete, approximately 200,000 parcels within the cadastre have mismatched information or other errors. Nizalov et al. (2022) indicate that these errors exist due to problems with the initial paper documents for land parcels, along with overlap of boundaries. As well LT/KSE/GoU (2021) note that, as of 2021, the State Service of Ukraine for Geodesy, Cartography and Cadastre could not find 5 million hectares of land in their records, and the fieldwork revealed that large urban areas were never in the cadastre. Meanwhile, detailed information on HLP is only submitted to the cadastre on a voluntary basis, and there is uncertainty as to the legal status of such information (LT/KSE/GoU, 2021). These issues, combined with outdated cadastre images, lack of transparency, record duplication, and multiple conflicts of interest within laws governing the Land Cadaster and State Geocadaster, allow for significant dysfunction and corruption in the HLP sector (LT/KSE/GoU, 2021; Nizalov, 2019).

Corruption tangles

Prior to the war Ukraine was ranked as the most corrupt country in Europe after Russia (ECCD, 2018). The country has experienced large-scale corruption in the HLP sector, both in and outside of government, with fraud in real estate transactions common, including within the court system (CU, 2018; PoU, 2020; RIEL, 2021). Among the most frequently encountered schemes are those involving renting and selling apartments by individuals who are not the owners. This occurs without the true owners being aware that their HLP are being transacted, and occurs to such an extent that registration blocking procedures are offered by the Ministry of Justice in an attempt to thwart the practice (RIEL, 2021). Another scheme is 'property raiding' whereby 'raiders' assert that a property owner has not obtained their HLP according to the proper procedures and that they are going to take it. Markus (2015) calls this 'agent predation' and observed it to be widespread in the HLP sector in Ukraine. A variation includes the use of threatening language by mafia types in order to take property. Such extensive fraud presents a particularly dense tangle of HLP rights problems for restitution, particularly when good faith purchases of fraudulently transacted HLP are involved. Attempting to untangle the outcomes of pre-war corrupt HLP practices and maneuvers in a restitution process (because certainly victims will submit claims) based on the 'case-by-case/narrow evidence rules' approach as envisioned, will be very difficult if not impossible, and possibly dangerous given the actors involved.

Fieldwork in Ukraine revealed that it is common for local councils and local mayors to be involved in a variety of schemes with HLP concerning different ways to make money, manipulate registrations, and obtain and repurpose land on behalf of powerful interests. Individuals in the communities visited in the fieldwork report that they have very little trust in local councils and local leadership but greater trust in higher levels of government. Bader (2021) notes the common occurrence of local elite capture in smaller Ukrainian communities because of the incomplete development of civil society in many areas along with the lack of a political culture whereby representative institutions and elected officials are commonly held to account. As well Markus (2015) describes the considerable involvement of local government in HLP corruption. Overall there is high variation in the capacity of local councils and the trust that local populations have in them. This capacity should not be confused, of course, with the ability of certain aspects of civil society to thwart Russia's aggression, which has proved to be considerable.

The poor are most vulnerable to corruption in the HLP sector, having the weakest rights, lowest level of rights awareness, and weakest ability to resist corruption and illicit land takings (Romhanyi, 2022). Ukraine is the poorest country in Eastern Europe (WPR, 2022), with rural poverty deepening in recent years (FAO, 2022), and one prewar estimate putting those living in poverty at 60% of the population (Liasheva, 2018). Meanwhile the World Bank notes that poverty due to the current war has increased tenfold (Shalal, 2022). This increased vulnerability to corruption in HLP presents an added challenge to restitution efforts.

The 'case-by-case/narrow evidence rules' approach for HLP restitution is particularly vulnerable to corruption because the high volume of individual cases to be evaluated and adjudicated presents so many opportunities. This future potential for corruption is then a separate set of problems than that associated with attempting untangle the consequences of past occurrences of corruption in order to pursue HLP restitution.

War-related additions to the tangle

The war itself has created HLP complications that will interact with those described above in unforeseen ways in a restitution context. Some of these include: large-scale forced dislocation; expropriation of HLP in the eastern occupied regions; destruction of HLP offices and archives; a confused, ad hoc HLP claims-making and adjudication process; a significant degradation in administrative capacity; opportunists; the presence of landmines; and Russia's interest in thwarting restitution.

The forced dislocation of millions of people means that not being physically present to assert rights to one's HLP, will cause significant disruption to restitution given that the Compensation Law requires an official assessment of damage or destruction be completed for each claim—with residential housing being the largest category of war-time destruction (Sitchenko personal communication Ukrainian Helsinki Human Rights Union 2022). The current plans by the Ministry of Regional Development for this assessment not only includes the requirement that a professional conduct it, but that the owner be present, or appoint a representative to be present. If neither of these are present the assessment of the HLP cannot proceed and restitution (including compensation) cannot take place (Petroshchuk, 2022). That these two requirements be fulfilled for each claim is highly unrealistic given the volume of the claims that will be forthcoming, the absence of claimants, and the degraded capacity of government due to the war. Moreover, not included in the Compensation Law is a consideration of how to handle compensation for the large-scale

damage to agricultural lands—purposeful flooding, landmines, military vehicle damage to soils, purposeful burning of crops, explosive ordinance damage, etc.

In eastern Ukraine HLP disputes are a primary feature in the territories of Crimea, Donetsk and Luhansk where the Russian military and allied militias engage in HLP expropriation and occupation (FAO, 2022; LandLinks, 2017). The self-declared Donetsk People's Republic (purportedly annexed by Russia in 2022) passed a law depriving those who hold a Ukrainian passport of their civil and property rights, and the right to sell or buy HLP. As a result approximately 300,000 people have been forced to obtain Russian passports in order to continue to engage in their livelihoods and retain and transact their HLP (YHIAH, 2021). This is part of an effort by pro-Russian separatists to nationalize HLP abandoned by those who fled, affecting some 1.5 million people (Coynash, 2019; Tokar & Syvko, 2021). There are reports from eastern Ukraine that abandoned HLP are taken over by Russian soldiers and their families, or used as forms of payment in exchange for signing up or extending military service, as well as being provided to the Donetsk and Luhansk Army Corps (RL, 2018).

There has been a significant loss of HLP documents due to the war (Nizalov, 2022; Sitchenko pers comm Ukrainian Helsinki Human Rights Union 2022). Documents can be left behind as families flee, be purposefully discarded prior to crossing Russian checkpoints as previously noted, or confiscated or destroyed as residential buildings are targeted. As well looting and destruction of HLP offices and archives takes place not only in the eastern regions, but elsewhere in the country. Work at a Ukrainian university revealed the presence of strong ballistic evidence that the Russian military has targeted HLP document archives and cadastre offices with airborne weapons.

There currently exists in Ukraine a fairly confused ad hoc process by which some HLP claims are already being submitted and adjudicated—and in many cases denied. This occurs as well intentioned legal aid and other NGOs take in claims and submit them to standing judges to be adjudicated under current domestic law, resulting in numerous cases being denied quickly and easily under narrow evidence rules. There can be a propensity on the part of the courts to close out such cases quickly, because otherwise compensation funds would need to come from somewhere and the government does not currently have this money—similar to what occurred in the east previously. The problem here is that, with the passage of the Compensation Law, and/or special procedures put in place for adjudication under different evidence rules, many of the claimants will want their cases reconsidered, which may be difficult once adjudicated.

The war has caused a significant degradation of administrative capacity in the HLP sector—by more than 20 percent according to NA/KSE/GLA (2022). This includes disruption in the coordination between ministries that manage different parts of the sector to the degree that, instead of coordination, there is competition and even some animosity between certain ministries and actors in government. Further reducing capacity, from February to May 2022 the government closed access to state HLP registries and cadastres, with these restrictions still in place for the Russian occupied territories due to the war. Currently 50 regional offices of the State Geo-Cadastre have been closed and staff and operating funds have been redirected to the war effort (Coumans, 2022). For the current martial law period there are restrictions on the list of notaries and registrars who can carry out their duties (NA/KSE/GLA, 2022). HLP administrative capacity in the occupied and recently de-occupied territories, along with the wide combat zone, are completely lacking. There is some indication that the occupying forces have attempted to establish a parallel HLP rights system (Nizalov, 2022). Kolesnyk (2022) also observed a decline in tenure security in Ukraine during the war due to decline of government administrative capacity, along with violence, land grabbing, demographic change and HLP damage and destruction.

A common HLP feature in many war-affected states is that the socio-political fluidity of armed conflict and the post-conflict period can create certain opportunities. For many this can mean an opportunity to reclaim HLP lost or expropriated in previous decades. In Ukraine there is very likely to be an upsurge in such reclaiming, acting on historical HLP grievances and disputes (Kolesnyk, 2022). Many of these will not be connected to the current war, but will see the fluidity of the war as an opportunity to pursue historical injustices over HLP, which, given Ukraine's history, are many. Other opportunities will emerge for the more wealthy returnees and commercial interests in Ukraine, who will be in a position to capture a wide variety of HLP aspects of recovery such as land for reconstruction, real estate investment, and building materials (Romhanyi, 2022). Every war sees opportunists moving into HLP that became abandoned, and Ukraine is likely to be no different given the size of the population dislocation, the decrease in administrative capacity, and the level of corruption in the HLP sector. Evicting such opportunists or recovering HLP to whom they have illegally sold it to, will be an additional knot in the tangle.

The large-scale presence of landmines, booby traps, and unexploded ordinance will greatly affect returns to HLP, including the returns necessary for HLP damage assessments. By some estimates as much as 30% of the country has been contaminated by mines and unexploded ordinances (Klain, 2022). Unruh and Corriveau-Borque (2011) describe at length the HLP problems associated with landmine contaminated areas in war-affected states. From areas made inaccessible to populations who then need to reside elsewhere, to HLP rights problems caused by mine clearance, the impacts on tenure are numerous and long-lasting. Important here is the realization that claimants whose HLP are affected by landmines will need restitution in the form of compensation long before they are able to return, if they are able or willing to return at all—something the current restitution approach does not address.

Finally, it should be recognized that it is in Russia's interest to pursue opportunities to subvert, thwart, and slow the progress of HLP claims processing given that compensation funds are being sought from Russian assets. Russia is clearly interested in demographic change especially in the eastern Donbas region. The State Service of Ukraine for Geodesy, Cartography and Cadastre highlights the importance of protecting cadastre information from Russian access, which means a reduction in the information that can be publicly accessed by Ukrainians (Coumans, 2022). Russia has been active internationally in its efforts to thwart assistance to Ukraine, and it would be wise to assume they would robustly work against a large-scale HLP restitution process in various ways. Russia's cyber warfare on Ukrainian institutions are a particular concern in this regard (Greenberg, 2022).

INTERNATIONAL BEST PRACTICE

The intention of this article has been to briefly describe some of the categories of the tenorial tangle that would need to be attended to in order to pursue large-scale HLP restitution along the lines of the 'case-by-case/narrow evidence rules' approach currently envisioned by the government. The very real risk is that, without a methodology that can achieve the necessary speed, scale, and efficacy, the return-restitution process could easily take many decades, disaffecting claimants, risking social strife, encouraging destabilizing political movements and opportunists (including from outside the country), and crippling the economy. The latter is particularly important given that HLP undergirds economic functioning generally (Markus, 2015), and represents most Ukrainian household's primary source of capital and thus their means of participating in the



economy (Wynveen & Chantefort, 2016). Further, as the Economist (2022) warns, “if Ukraine’s economy fails, so will its democracy.”

The best practice approach that has been assembled over time and numerous wars, does not attempt to untangle each claim. Instead, the approach is to supersede such difficulties and categorize claims along certain criteria (as opposed to treating claims individually) with a single legal decision issued for an entire category. Categories can be organized along the lines of possible remedies, type of HLP, geographic area, manner in which dislocation occurred, type of damage/destruction, or size or value of the HLP, and so forth. Eligibility for admission to a category is based on forms of evidence involved in the claim, with these aligned with what those who are dislocated from their HLP are known to have, instead of what the law may consider to be the ‘best evidence’ under normal circumstances with narrow evidence rules. This approach is known as ‘mass claims and transitional justice’ for HLP restitution in war-affected states, for which there is a substantial literature and multiple examples (eg., Das, 2006; Das & Van Houtte, 2008; Holtzmann & Kristjansdottir, 2007; Leckie, 2009; Rowen & Snipe, 2021; Unruh & Abdul-Jalil, 2021). The approach requires that new (usually temporary) laws be passed to facilitate this alternative treatment of cases and evidence. The overall objective of the approach is to engage in forms of restitution and determination of remedies quickly and at scale in order to attend to what is an extraordinary social problem, as opposed to attending to the integrity of existing law by scrutinizing the merits of each case. In this context the perception of social justice is what is prioritized, as opposed to the legal technicalities favored by the ‘case-by-case/narrow evidence rules’ approach. This can be a difficult perspective for war-affected governments, particularly for lawyers working with government who draft laws for restitution. However, as noted by the Permanent Court of Arbitration’s International Bureau (IBPCA, 2006), “[t]he objectives of resolving mass claims are to provide real justice to the victims of the events which gave rise to the claims, and to allay the disruptive discontent within a nation or society that unresolved wrongs perpetuate.” What this means is that justice regarding HLP restitution is based on certain facts, presumptions, and burden of proof that are different from what may exist at the end of a particular tenurial tangle. Such facts may include forced dislocation, damage and destruction in a particular area, or that the dislocated population lived somewhere previously, and that there exists ancillary corroborative evidence supporting the assertion (claim) as to where, is good enough for inclusion in a category and for a remedy to be applied in an HLP ‘mass claims/transitional justice’ approach. This is a different legal reasoning than what exists in laws made for normal times regarding management of HLP issues where getting to the bottom of a particular individual situation is the priority in order to deliver justice.

The technical and administrative aspects of this best practice approach usually begins with the establishment of a specialized commission of some kind (e.g., Das & Van Houtte, 2008; Holtzmann & Kristjansdottir, 2007; Van Houtte et al., 2008). Such a commission is comprised of judges, technical legal personnel and advisors, and is supported by the international community, with its legal basis drawn from both domestic and international law in the derivation of transitional justice techniques (eg., Das & Van Houtte, 2008; FAO, 2007; Holtzmann & Kristjansdottir, 2007; Van Houtte et al., 2008). The commission derives the tailored procedural and evidentiary techniques that will be used, including standards of evidence and corroboration, criteria for eligibility, how claims are categorized, burden of proof, and the use of decision-making techniques applied to the categories such as presumptions, inferences, modeling, precedent setting, data matching and common issue determination (e.g., Das & Van Houtte, 2008). In order to achieve this, the commission facilitates the electronic filing of claims (today possible remotely from the claimant’s phone directly into a database), the

screening and analysis of large databases holding details of claims, and the deployment of the human, technical, and financial resources for implementing remedies. Giorgetti et al. (2022b) elaborate very effectively how a mass claims process (although not specifically for HLP) can be established for Ukraine. The Zelenskyy government does appear willing to create and use special mechanisms of justice, having recently created one specifically for war crimes and crimes against humanity (POU, 2022).

For Ukraine, the needed alignment with this best practice is important and urgent given that the EU has recently indicated that they would establish a platform for reconstruction in Ukraine (Revill & Koltowitz, 2022), and Ukraine has recently been admitted to candidate status for membership in the EU. Such membership, to which Ukraine certainly aspires (Shmyhal, 2022), comes with a commitment to a whole rule of law system that is coherent and aligned with EU rule of law standards, values, and modes of operation. The EU clearly has supported the operative approach of ‘mass claims/transitional justice’ for HLP restitution and compensation in other war affected states (eg, Holtzmann & Kristjansdottir, 2007; IBPCA, 2006; Van Houte, 1999). What is more, the Global Land Alliance notes for HLP restitution for Ukraine, “[i]nternational and national support to this process will heavily depend on the government’s ability to establish a fast, transparent and just process of such compensation. This ability would significantly affect the speed and scope of the post-war reconstruction process” (GLA/NA, 2022; also Nizalov, 2022).

While use of frozen Russian assets for HLP compensation is gaining momentum and can contribute significantly to the best practice approach, caution is warranted regarding the potential impact of this use on Russian society. It would be unwise to fail to learn from history whereby the punitive financial arrangements imposed on Germany subsequent to World War I contributed to emergence of the subsequent war. The distinction between freezing assets versus confiscating them in a wartime context is important here. While confiscation of assets can serve to discourage further aggression, hold perpetrators to account, and facilitate reconstruction, freezing assets serves as an incentive (as sanctions do) to end a war so that assets can be unfrozen and returned to their original owners. In this regard the West might consider a combination of confiscation of some assets while keeping others frozen to be returned in exchange for Russian efforts to bring the war to a close. Part of such an effort could be to focus on either oligarch assets, or government assets for confiscation, while determining which other assets would be used to support the recovery of the Russian economy.

The ingredients for effective restitution exist for Ukraine—a willing government and civil society, impressive legal and technological abilities, a national identity now consolidated by the war, international backing, and importantly, the prospect of using repurposed funds. However, this article argues that, in order to effectively engage in HLP restitution, the country needs to technically supersede its daunting tenurial tangle.

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REFERENCES

- Amosov, M. 2019. *The Land Question: Land Concentration and the Agricultural Land Moratorium in Ukraine*. Longreads, Amsterdam: Transnational Institute. <https://longreads.tni.org/the-land-question-ukraine>
- Bader, M. 2021. *The Risk of Local Elite Capture in Ukraine's Decentralization Reform*. Kyiv: VoxUkraine.
- Becker, T., B. Eichengreen, Y. Gorodnichenko, S. Guriev, S. Johnson, T. Mylovanov, K. Rogoff, and B. di Mauro. 2022. *A Blueprint for the Reconstruction of Ukraine*. Rapid Response Economics 1. London: Centre for Economic Policy Research.
- Ben, B. 2021. "Goodbye, USSR: Ukrainians Take True Ownership of their Condos." *Euromaidan Press*, April 14.
- Contact Ukraine (CU). 2018. "Ukraine Real Estate Market – Opportunities and Challenges." *Contact Ukraine*. <https://www.contactukraine.com/real-estate/ukraine-real-estate-investment>
- Coumans, F. 2022. "Cadastre in Wartime." *GIM International*, August 4. <https://www.gim-international.com/content/article/cadastre-in-wartime>
- Coydash, H. 2019. Russian Proxy Republics 'Officially' Seize Ukrainian's Homes in Donbas. Kharkiv: Kharkiv Human Rights Protection Group.
- Danish Refugee Council (DRC). 2015. HLP Rights in a Snapshot. HLP Briefing Note 1, Ukraine. Copenhagen: Danish Refugee Council.
- Davis, H. 2006. "The Concept of Mass Claims and the Specificity of Mass Claims Resolution." In *Redressing Injustices through Mass Claims Processes: Innovative Responses to Unique Challenges*, edited by The International Bureau of the Permanent Court of Arbitration, 3–12. Oxford: Oxford University Press.
- Das, H., and H. Van Houtte. 2008. *Post-War Restoration of Property Rights under International Law, Vol 2, Procedural Aspects*. Cambridge: Cambridge University Press.
- Davis, C. 2022. "Ukraine War: Stories of Torture Emerging out of Kherson." *BBC*. June 1.
- Dolgoplova, L. M., M. V. Us, and S. O. Glotov. 2020. "Relevant Issues of Property Rights Protection in Ukraine." *Journal of Advanced Research in Law and Economics* 11(50): 1137–44.
- Economic Crime and Cooperation Division (ECCD). 2018. Ukraine most Corrupt Country in Europe after Russia. Strasbourg: Council of Europe, Economic Crime and Cooperation Division. https://www.coe.int/en/web/corruption/completed-projects/enpi/newsroom-enpi/-/asset_publisher/F0LygN4lv4rX/content/ukraine-most-corrupt-country-in-europe-after-russia?inheritRedirect=false#
- Economist. 2022. "Dreams of Peace: How a Stable and Successful Country Could Emerge from the Trauma of Russia's Invasion." *The Economist*, November 12.
- Fischbach, M. 2006. *The Peace Process and Palestinian Refugee Claims: Addressing Claims for Property Compensation and Restitution*. Washington, DC: United States Institute of Peace.
- Food and Agriculture Organization of the UN (FAO). 2022. *Ukraine: Land Tenure Role in Building Back Better*. Complimentary Information Note, April. Rome: Food and Agriculture Organization.
- Food and Agriculture Organization of the United Nations (FAO). 2007. *Handbook on Housing and Property Restitution for Refugees and Displaced Persons: Implementing the Pinheiro Principles*. Rome: Food and Agriculture Organization.
- Fortescue, S. 2010. "Institutionalization and Personalism in the Policy-Making Process of the Soviet Union and Post-Soviet Russia." In *Russian Politics from Lenin to Putin*, edited by S. Fortescue, 21–50. New York, NY: Palgrave MacMillan.
- Giorgetti, C., M. Kliuchkovsky, P. Pearsall, and J. Sharpe. 2022a. "Historic UNGA Resolution Calls for Ukraine Reparations." *Just Security*, November 16. <https://www.justsecurity.org/84146/historic-unga-resolution-calls-for-ukraine-reparations/>
- Giorgetti, C., M. Kliuchkovsky, and P. Pearsall. 2022b. "Launching an International Claims Commission for Ukraine." *Just Security*, May 20. <https://www.justsecurity.org/81558/launching-an-international-claims-commission-for-ukraine/>
- Global Affairs Canada (GAC). 2022. "Canada Starts First Process to Seize and Pursue Forfeiture of Assets of Sanctioned Russian Oligarch." *Global Affairs Canada*, December 19.
- Global Land Alliance/New America (GLA/NA). 2022. *Rapid Needs Assessment: Protecting Property Rights during and after the War in Ukraine*. Global Land Alliance/New America, Kyiv.
- Greenberg, A. 2022. "Russia's Cyberwar Foreshadowed Deadly Attacks on Civilians." *Wired*, December 28. <https://www.wired.com/story/russia-cyberwar-ukraine-target-civilians/>

- Haersolte-van, J. 2006. "Innovations to Speed Mass Claims: New Standards of Proof." In *Redressing Injustices through Mass Claims Processes*, edited by Permanent Court of Arbitration, 13–24. Oxford: Oxford University Press.
- Holtzmann, H., and E. Kristjansdottir. 2007. *International Mass Claims Processes: Legal and Practical Perspectives – Remedies*. Oxford: Oxford University Press.
- Karadeglija, A. 2022. "Canada Could Set Global Precedent in Attempt to Redistribute oligarch's Millions." *The National Post*, December 29. <https://nationalpost.com/news/politics/canada-redistribute-oligarchs-millions>
- Karasapan, O. 2022. *Forcibly Displaced Ukrainians: Lessons from Syria and beyond*. Washington, DC: Brookings Institute, June. <https://www.brookings.edu/blog/future-development/2022/06/21/forcibly-displaced-ukrainians-lessons-from-syria-and-beyond/>
- Kirkegaard, R., T. Kleine-Brockhoff, and B. Stokes. 2022. *Designing Ukraine's Recovery in the Spirit of the Marshall Plan*. Washington, DC: The German Marshall Fund.
- Klain, D. 2022. "Russia Is Seeding Ukraine's Soil with Landmines." *Foreign Policy*, September 15.
- Kolesnyk, H. 2022. *How the War in Ukraine Affects Land Tenure Security*. Kyiv: Legal Development Network. <https://ldn.org.ua/en/event/how-the-war-in-ukraine-affects-land-security/>
- Kostyashkin, I., N. Chudyk-Bilousova, L. Taranenko, A. Andrushko, and N. Loginova. 2020. "Land Ownership in Ukraine: Reform Issues." *Journal of Advanced Research in Law and Economics* 11(50): 1175–83.
- Kravtsov, I. 2019. *Ukraine: Property Rights in Ukraine*. London: Mondaq (legal reporting).
- Kryshchanovskaya, O., and S. White. 1996. "From Soviet Nomenklatura to Russian Elite." *Europe-Asia Studies* 48(5): 711–33.
- Kuznetsova, I., O. Mikheieva, G. Gulyieva, R. Dragneva, and V. Mykhnenko. 2018. *The Social Consequences of Population Displacement in Ukraine: The Risks of Marginalization and Social Exclusion*. Policy Brief. Birmingham: The University of Birmingham.
- Land Transparency, Kyiv School of Economics, Government of Ukraine (LT/KSE/GoU). 2021. *Strategy for the Development of Land Relations in Ukraine*. Kyiv: Land Transparency, Kyiv School of Economics, Government of Ukraine.
- LandLinks. 2017. *Ukraine Country Profile*. LandLinks. <https://www.land-links.org/country-profile/ukraine/>
- Leckie, S. 2009. "United Nations Peace Operations and Housing, Land and Property Rights in Post-Conflict Settings: From Neglect to Tentative Embrace." In *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, 3–18. Cambridge: Cambridge University Press.
- Leshchenko, R. 2021. *Land Reform Can Make Ukraine an Agricultural Superpower*. The Atlantic Council, Eurasia Center, <https://www.atlanticcouncil.org/blogs/ukrainealert/land-reform-can-make-ukraine-an-agricultural-superpower/>
- Liasheva, A. 2018. *Housing in Kiev: Why don't we Have a Place to Live?* Kyiv: Transnational Institute. <https://longreads.tni.org/housing-in-kiev>
- Mamo, C. 2021. "Real estate prices in Kyiv are soaring." *Emerging Europe: News and Analysis*, August 19. <https://emerging-europe.com/news/real-estate-prices-in-kyiv-are-soaring/>
- Markus, S. 2015. *Property, Predation, and Protection: Piranha Capitalism in Russia and Ukraine*. Cambridge: Cambridge University Press.
- New America / Kyiv School of Economics / Global Land Alliance (NA/KSE/GLA). 2022. *Needs Assessment: Capacity, Needs and Priorities for Quick, Just and Transparent Compensation of Property Losses and Restitution Rights in the Post-War Ukraine*. Online Workshop 27 September. Held by New America, Kyiv School of Economics, Global Land Alliance: Kyiv.
- Nitsevych, A. n.d. "Real Estate in Ukraine: Frequently Asked Questions." *Interlegal, Ukraine*. <https://www.hg.org/legal-articles/real-estate-in-ukraine-frequently-asked-legal-questions-5095>
- Nizalov, D. 2019. "Land Reform Strategy in Ukraine until 2024". *Vox Ukraine*, November 15. <https://voxukraine.org/en/land-reform-strategy-in-ukraine-until-2020/>
- Nizalov, D. 2022. *Rapid Needs Assessment: Protecting Property Rights during and after the War in Ukraine*. Kyiv: New America, Global Land Alliance, Kyiv School of Economics.
- Nizalov, D., M. Bogonos, and M. Childress. 2022. "The Next Day after we Win the War: Restitution of Property Rights in Ukraine." *Vox Ukraine*, October 31. <https://voxukraine.org/en/the-next-day-after-we-win-the-war-restitution-of-property-rights-in-ukraine/>



- Norwegian Refugee Council (NRC). 2016a. Housing, Land and Property Rights of Displaced and Conflict-Affected Communities in Eastern Ukraine. NRC Report. Oslo: Norwegian Refugee Council.
- Norwegian Refugee Council (NRC). 2016b. Voices from the East: Challenges in Registration, Documentation, Property and Housing Rights of People Affected by Conflict in Eastern Ukraine. NRC Report. Oslo: Norwegian Refugee Council.
- Norwegian Refugee Council (NRC). 2018. Damaged or Destroyed as a Result of Hostilities in the Armed Conflict in Eastern Ukraine: Gaps and Opportunities. Oslo: Norwegian Refugee Council.
- Petroshchuk, O. 2022. Pers. Comm. Ministry of Regional Development, Ukraine.
- Popov, A. 2019. "Land Cadastre Development in Ukraine: Issues to be Addressed." *Geodesy and Cartography* 45(3): 126–36.
- President of Ukraine (PoU). 2020. We Return the Land to the People – President Signed a Decree on the Transfer of Agricultural Land from State to Communal Ownership. Official Website. Kyiv: Government of Ukraine. <https://www.president.gov.ua/en/news/mi-povertayemo-zemlyu-lyudyam-prezident-pidpisav-ukaz-shodo-64613>
- President of Ukraine (PoU). 2022. Volodymyr Zelenskyy Met with an Expert Group on the Gradation of a Special International Mechanism of Justice. Official Website. Kyiv: Government of Ukraine. President of Ukraine. <https://www.president.gov.ua/en/news/volodimir-zelenskij-zustrivsyia-z-ekspertnoyu-grupoyu-shodo-s-74261>
- Prindex. 2022. Prindex Ukraine, Securing Land and Property Rights. Prindex, June 6. <https://www.prindex.net/data/ukraine/>
- Property Rights Alliance (PRA). 2022. Ukraine. Property Rights Alliance, October 30, <https://www.internationalpropertyrightsindex.org/about>
- Radio Liberty (RL). 2018. "While some Donetsk Residents Are Trying to Leave the Occupied Zone, Newcomers from Russia's Depressed Zones Are Streaming into the Donbas." *Radio Liberty*, January 27.
- Redress. 2022. Sanction, Confiscate, Compensate, Briefing: Comparative Laws for Confiscating and Repurposing Russian Oligarch Assets. London: Redress.
- Revill, J., and S. Koltrowitz. 2022. "Ukraine PM: Rich Russians Should Pay the Bill to Rebuild." *Reuters*, July 4. <https://www.reuters.com/world/europe/European-union-set-up-platform-Ukrainian-reconstruction-2022-07-04/>
- RIEL. 2021. How Can I Verify the Data in the State Register of Property Rights to Immovable Property? Verification Methods and Step-by-Step Instructions. RIEL Real Estate Corporation, September 10. <https://www.reuters.com/world/europe/european-union-set-up-platform-ukrainian-reconstruction-2022-07-04/>
- Robertson, D. 2022. "Ottawa to Attempt Seizure of Russian oligarch's Assets—A First for Sanctions Regime." *The Canadian Press*, December 19.
- Romani Early Years Network (REYN). 2022. "Reyn Ukraine." https://reyn.eu/national_networks/ukraine/
- Romhanyi, B. 2022. "Housing in Ukraine after the War." *VoxUkraine*, 29 April. <https://voxukraine.org/en/housing-in-ukraine-after-the-war/>
- Rowen, J., and A. Snipe. 2021. "The Promise and Perils of Urban Land Restitution in Latvia." *International Journal of Transitional Justice* 15(1): 47–65.
- Rubryka. 2022. "Zelenskyy Signs a Law in Forced Confiscation of Russian Property in Ukraine." *Rubryka News*, April 6.
- Shalal, A. 2022. "World Bank Says Ukraine Has Tenfold Increase in Poverty Due to War." *Reuters*, October 15. <https://www.reuters.com/world/europe/world-bank-says-ukraine-has-tenfold-increase-poverty-due-war-2022-10-15/>
- Shcherbatyuk, M. 2014. Property Rights. Karkiv: Kharkiv Human Rights Protection Group, April 21. <https://khpg.org/en/1398088562>
- Shmyhal, D. 2022. "Address by Prime Minister of Ukraine Denys Shmyhal at a Government Session". *Ukraine Government Portal*, Official Website, December 30. <https://www.kmu.gov.ua/en/news/promova-premier-ministra-ukrainy-denysa-shmyhalia-na-zasidanni-uriadu-30122022>
- Smaliychuk, A., D. Muller, A. Prishchepo, C. Levers, I. Kruhlov, and T. Kuemmerle. 2016. "Recultivation of Abandoned Agricultural Lands in Ukraine: Patterns and Drivers." *Global Environmental Change* 38: 70–81.
- Special Economic Measures Act (SEMA). 2022. Canada Bill C-19 Amendment – Economic Sanctions. Bill C19, Division 31. Ottawa: SEMA. https://www.justice.gc.ca/eng/csj-sjc/pl/charte-charte/c19_2.html#:~:text=Division%2031%20would%20amend%20the,or%20restrained%20under%20those%20Acts.44-1/bill/C-19/royal-assent#IDOETDA (NA/KSE/GLA).
- The International Bureau of the Permanent Court of Arbitration (IBPCA). 2006. Redressing Injustices through Mass Claims Processes: Innovative Responses to Unique Challenges. Oxford: Oxford University Press.

- The International Working Group on Russian Sanctions (IWGRS). 2022. Why and how to Confiscate Russia's Sovereign Assets to Help Ukraine Rebuild. Stanford University, The International Working Group on Russian Sanctions, October 11. <https://fsi.stanford.edu/working-group-sanctions>
- The Official Bulletin of the Verkhovna Rada of Ukraine (BVR). 2002. Land Code of Ukraine. Kyiv: Verkhovna Rada of Ukraine.
- Tokar, Y., and S. Syvko. 2021. "Donetsk IDPs Face Potential Loss of Homes under Separatist 'Nationalization' Policy." *Current Time, Radio Free Europe/Radio Liberty*, June 3.
- Ukrainian Rural Development Network / Eco Action (URDN/EA). 2020. Main Problems with the New Land Law in Ukraine. Kyiv: Ukrainian Rural Development Network/Eco Action.
- UN International Organization for Migration (IOM). 2022. Transitional justice and durable solutions. IOM Ukraine: Brief. Kyiv.
- UN Political and Peacebuilding Affairs (UNPPA). 2022. "DiCarlo on Ukraine: The Cycle of Death, Destruction, Dislocation and Disruption Must Stop". *UN Political and Peacebuilding Affairs, Comments by the UN under Secretary General*, June 28.
- Unruh, J., and M. Abdul-Jalil. 2021. "Housing, Land and Property Rights in Transitional Justice." *International Journal of Transitional Justice* 15(1): 1–6.
- Unruh, J., and A. Corriveau-Borque. 2011. "Volatile Landscapes: The Impact of Explosive Remnants of War on Land Rights in Conflict Affected Countries." *Journal of Peace, Conflict and Development*. 18: 1–19.
- Unruh, J., E. Frank, and M. Pritchard. 2017. "A Digital Advance for Housing, Land and Property Restitution in War-Affected States: Leveraging Smart Migration." *Stability: International Journal of Security and Development*. 6(1): 1–17.
- Van Houte, H. 1999. "Mass Property Claim Resolution in a Post-War Society: The Commission for Real Property Claims in Bosnia and Herzegovina." *International and Comparative Law Quarterly* 48: 625–38.
- Van Houtte, H., B. Delmartino, and I. Yi. 2008. *Post-War Restoration of Property Rights under International Law, Volume I: Institutional Features and Substantive Law*. Cambridge: Cambridge University Press.
- Verkhovna Rada of Ukraine (VRU). 2023. Law of Ukraine On Compensation for Damage and Destruction of Certain Categories of Real Property as a Result of Hostilities, Terrorist Acts, and Sabotage Caused by the Military Aggression of the Russian Federation. Law 7198. Shulyak O.O (Honorary Decree no 13), Kyiv, Ukraine.
- Winiacki, J. 1990. "Why Economic Reforms Fail in the Soviet System—A Property Rights-Based Approach." *Economic Inquiry* 18: 195–221.
- World Population Review (WPR). 2022. "Poorest Countries in Europe, Ukraine." *World Population Review*. <https://worldpopulationreview.com/country-rankings/poorest-countries-in-europe>
- Wynveen, R., and I. Chantefort. 2016. *Pre-Conflict Housing in Ukraine: Real Estate Markets and Tenure Dynamics*. Shelter Cluster Ukraine.
- YHIAH. 2021. "DPR Wants to Deprive Residents with Ukrainian Passports of Civil, Property Rights." *YHIAH Information Agency*, January 19. <https://www.unian.info/society/dpr-residents-with-ukrainian-passports-may-be-deprived-of-civil-and-property-rights-11290910.html>
- Yuliia, K., G. Liudmyla, H. Liudmyla, M. Nataliia, and S. Gupta. 2022. "An Assessment of the Legal Framework Governing Land Ownership Is Evolving in Ukraine." *Materials Today: Proceedings* 49: 3619–23.
- Zemko, A., H. Bukanov, H. Zadorozhina, O. Vinyukova, and K. Yefimenko. 2021. "Land Market of Ukraine: Problems of Legislative Regulation." *International Journal of Computer Science and Network Security*. 21(12): 459–62.
- Zimmerman, K. 2015. *A New Model for Defeating al Qaeda in Yemen*. The Critical Threats Project, September. <https://www.criticalthreats.org/analysis/a-new-model-for-defeating-al-qaeda-in-yemen>

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