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DRIVING TRANSFORMATION IN WAR-RELATED HOUSING, LAND AND PROPERTY RESTITUTION: INNOVATIONS FROM THE UKRAINE – RUSSIAN WAR

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Abstract

Large-scale housing, land and property (HLP) restitution efforts for war-displaced populations face ongoing limitations in three key areas: legal frameworks, financing, and technology. These limitations have led to critical problems in managing population return, reconstruction and political and economic recovery; with particular concern on the emergence of exploitive agendas and social unrest. Ukraine's unfortunate war however presents the opportunity to examine significant advances in mitigating these limitations. Drawing on fieldwork in Ukraine and the author's experience in 23 war-affected countries, the article describes, 1) the socio-legal context and legislative timing of Ukraine's new Compensation Law; 2) the sources, monetization of HLP claims and remedies involved in financing restitution programmes; and 3) the restitution processing speed and social inclusion possible with Ukraine's approach to use of technology.

Key words

Armed conflict, land and property rights, financing restitution, law.

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1. Introduction

War-related forced dislocation of civilian populations and the vast damage and destruction of their housing, land and property (HLP) is presently setting global records—impacting the conduct of wars, the prospects for recovery, and global economy and politics (eg ECPHAO, 2024; ICMPD, 2024; UNHCR, 2024; DRC, 2024). HLP restitution and reconstruction for forcibly displaced populations over the decades has become an enormous endeavour, involving massive volumes of people, properties, money, logistics and construction material; and supported by

large-scale international efforts. While a great deal has been learned from this history, the restitution component (which necessarily comes before reconstruction) continues to experience significant limitations with regard to three critical areas, 1) law: socio-legal context and legislative timing; 2) financing: sources and funding remedies; and 3) technology: claims processing speed and social inclusion. Lack of understanding and consensus over the socio-legal context of war-affected HLP restitution and the appropriate timing of suitable legislation, has resulted in critical miscalculations with regard to the kind of laws and time required for the restitution process

to operate at the capacity, scale and speed needed. The result is that civil society's needs for timely and effective restitution, compensation and justice can go unmet and easily morph into grievances that can be acted upon by various exploitive agendas--domestic and foreign. At the same time the financing needed to plan and operate large-scale HLP restitution processes, and the sourcing of these funds has bedeviled postwar recovery efforts for decades. Inadequacy of funds for restitution has led to unequal, partial and delayed recovery, with repercussions on governance and the success of peace processes. And the use of technology for overcoming a variety of problems in restitution programming has lagged well behind the potential, compromising effectiveness, speed, trust and inclusion.

While significant operational advances are critically needed in these three areas, they are difficult to experiment with because countries in conflict and their international contexts are extremely complex, dynamic and difficult to model. The lamentable war in Ukraine however appears to provide the opportunity to examine very consequential advances in these areas. With a unique combination of political will, a technologically advanced population, and the potential for having the aggressor state pay, Ukraine presents the prospect of being able to drive a transformation in how governments, the international community, and importantly affected civilian populations are able to engage in HLP restitution. Subsequent to a description of the information gathering effort for this article and a brief overview of Ukraine's HLP wartime context, the paper examines restitution innovations with regard to law, financing and technology that Ukraine currently has underway; and the prospect these hold for war-affected HLP restitution efforts beyond Ukraine.

2. Information Gathering

The information gathering for this paper combined in-person fieldwork in Ukraine in August and November of 2022 and April 2024 in Kyiv, Bucha, Borodyanka, Kosarovychi, Hostomel and Horenka (with the latter five suffering heavy HLP damage and destruction by Russian forces); online discussions; a review of the relevant literature; and the author's experience working with HLP rights in 23 war-affected countries.

Key informant interviews in Ukraine comprised 234 persons and included: members of civil society impacted by the war; local government personnel; members of national and international NGOs; journalists; legal professionals; those involved in private business; local military administrations in charge of war-damaged towns; cybersecurity

personnel; reconstruction architects; geopolitical security analysts; land mine removal personnel; UN agencies (International Organization for Migration, UN Development Programme, UN Human Rights Office); local clergy; academics; and experts familiar with mass claims programmes for HLP, transitional justice, and restitution. Within Ukrainian federal government key informant interviews were conducted with: the Office of the Deputy Prime Minister for European and Euro-Atlantic Integration; the National Social Service of Ukraine; the Ministry of Justice; the Ministry of Regional Development and Social Policy; the Office of the Prosecutor General; the Office of the Commissioner for Gender Equity Policy; and the Office of the Parliamentary Commissioner for Human Rights.

Additional online discussions were held with over 200 persons regarding Ukrainian HLP from April 2022 to July 2024. These included Ukrainian: academics; lawyers; legal NGOs; those with the State Geo-Cadastre; reconstruction companies; the Ukrainian Business Ombudsman Council; members of the Association of Cities of Ukraine; bilateral donor organizations; UN agencies; international NGOs; and Canadian politicians engaged in efforts to confiscate Russian assets.

3. Ukraine's Wartime HLP Context

The wartime HLP context in Ukraine presents significant challenges to restitution programming. Over 14 million people have been forcibly dislocated since the onset of the war (Martyshchuk et al., 2023), with large-scale damage and destruction to HLP due to targeting of residential areas by Russian forces. Housing is the largest category of Ukraine's war-time destruction (Sitchenko, 2022), and HLP reconstruction (combining housing and agricultural land) has been estimated at approximately \$99B USD, the largest of any sector (Masters, 2023).

In eastern Ukraine the Russian military and its civilian constituencies engage in HLP expropriation and occupation, and use confiscated HLP as forms of payment for certain individuals enlisting in or extending military service (FAO, 2022; RL, 2018; LandLinks, 2017). This occurs alongside laws depriving those who hold Ukrainian passports of their property rights (YHIAH 2021), as part of a broader effort by pro-Russian constituencies to nationalize abandoned HLP, affecting some 1.5 million people (Tokar, Syvko 2021; Coynash 2019).

The war has led to substantial loss of people's HLP documents (Nizalov, 2022; Sitchenko, 2022).

Discarded or purposefully destroyed prior to crossing Russian checkpoints; left behind as owners flee; destroyed in the targeting of residential buildings, HLP offices and archives; or lost in looting; the absence of HLP documents will present a significant challenge to restitution. In addition, HLP administrative capacity has been significantly degraded by the war, with 50 regional offices of the State Geo-Cadastre closed in order to redirect staff and operating funds to the war effort (NA/KSE/GLA, 2022; Coumans, 2022). The result has been declines in tenure security along with increases in property-related violence, land grabbing and demographic change in certain areas (Kolesnyk, 2022).

The war also sets the stage for the emergence of three additional challenges. First, the wealthier returnees and commercial interests will be able to capture a wide array of HLP recovery, such as reconstruction land, investments in real estate and building materials (Romhanyi, 2022; Markus 2015). Second, the presence of landmines and unexploded ordinance covering over 30 percent of the country (Klain, 2022) will greatly impact returns to HLP. And third, it is in Russia's interest to subvert the HLP claims-making and restitution process, given that money for compensation and restitution for HLP damage and destruction is being sought from Russian assets.

4. Ukraine's Innovations

4.1. Law: socio-legal context and legislative timing

Socio-legal context and legislative timing are interconnect problems in war-affected HLP restitution scenarios. The scale of forced dislocation in contemporary wars together with the type and magnitude of the livelihood and socio-political challenges facing civil society puts a great burden on the nature and timing of the laws needed to facilitate a HLP restitution process (e.g., Jaspars, O'Callaghan, 2008; Leckie, 2009; Zevenbergen, Burns, 2010; Unruh, Abdul-Jalil, 2021). Misunderstanding the nature of this burden has repercussions for instability in civil society as large numbers of people return to areas of origin to find their HLP subject to damage and destruction; secondary occupation; illicit buying and selling; retribution involving HLP; disputes; land grabbing; political confiscations; and violence associated with ethnic, sectarian and other forms of 'cleansing' areas of their original inhabitants. The resulting discontent among returnees can lead to serious socio-political problems that can be difficult for a war-degraded state and slow moving international community to resolve. Without an effective legal framework for restitution, compensation and reconstruction in place able to

operate within this context, returning populations can pursue alternatives to restoring HLP ownership and access, including becoming attached to local militias, warlords, extremist groups and other actors who are able to take advantage of the circumstances—with Iraq, Syria, Yemen, Colombia and Sierra Leone examples of this. These conditions are an easy entry point for political spoilers in a peace process, along with individuals and groups who prosper from a war economy, or states or substate actors seeking to subvert a peace process—particularly those that may have supported the losing side (e.g., Sannerholm, 2012; Le Billon, 2012).

Such a difficult socio-legal context necessitates war-specific laws able to facilitate a large-scale HLP restitution process quickly. Often termed transitional justice laws, this is the legislation derived explicitly to attend to war-created problems in a timely manner, and move the country from crises to normal functioning.¹ However a problematic prerequisite to this legislation exists, which is that government needs to realize that special war era HLP laws are in fact needed; as opposed to thinking that existing laws made for stable, peaceful settings will be able to manage the crises context of hundreds of thousands to millions of displaced persons returning to damaged, destroyed, occupied, sold and confiscated HLP over a short timeframe. Unfortunately the latter perspective is the prevailing one among war-affected states—and this is a primary problem (e.g., Isser, Van der Auweraert, 2009; Rowen, Snipe, 2021; Almeida, 2021; Stigall, 2009). Virtually all governments in or emerging from armed conflict start off believing that existing (prewar) laws will be able to do the job, only to discover after the failure of such laws to manage the HLP crises context, are specific crises-appropriate laws then derived. By this time of course the socio-legal context has worsened, making the restitution challenge larger, more complicated and much more expensive. The legal contours for: verifying how individuals, families, and other property owning and using groups are attached to their HLP; for evicting secondary occupants; reversing confiscations and illegal sales; reversing ethnic and other forms of cleansing; resolving disputes; and compensation for damage and destruction; need to be in place before large-scale returns take place, and not after as is conventionally the case (Isser, Van der Auweraert, 2009; Barquero, 2004; CAS, 2006). However lawmaking always takes significant time; and in a war-affected scenario with people, funds, and administrative effort directed elsewhere, such timely

¹ See Unruh, Abdul-Jalil (2021) for a special issue of the International Journal of Transitional Justice on HLP in war-affected scenarios.

lawmaking can be difficult to come by. Ukraine stands out however as the rare exception where a crises HLP law has been derived before the end of the war.

Law 7198 ‘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’, came into force on 17 May 2023, and defines Ukraine’s wartime approach to HLP compensation for damage and destruction (VRU, 2023; BRDO, 2023). The Compensation Law (which incorporates restitution) allows for the filing of claims while the war is still underway--stipulating explicitly that claims submission may take place during martial law. This means that claims processing can begin during the war, and is in fact now underway. This is a significant innovation not seen previously, which allows the restitution and remedy process to begin during the war. Highlighting the importance of this timeliness, the UN reports 4.5 million people have already returned home since being forcibly displaced, and predicts many more will follow (IOM, 2023). While an in-depth description of the law is beyond the scope of the present paper, the interested reader is directed to the law itself (VRU, 2023) along with its summaries (e.g., Shvadchak, Datsenko, 2023; UNHCR, 2023). This section instead focuses on the law’s timing and socio-legal context.

The timing of the law’s implementation prior to the war’s conclusion is important because not only does it advance the extensive preparations needed for large-scale HLP returns, but registering large numbers of claims before a war is over can have strategic conflict resolution utility. In Ukraine this occurs by making legal and financial accountability for HLP damage and destruction widely known, particularly among international legal and financial institutions. The result is the creation of a liability, which is being pursued forcefully by Ukraine and its international partners and will ultimately need to be dealt with in the context of reparations, peace negotiations, victory or defeat (Unruh, Goodell, 2023). Postwar reparations and other forms of repayment have a long history, even for victors (De Greiff, 2006; Dolzer, 2002); with the challenge being the need to articulate claims in sufficient detail and timeliness.

Ukraine is also robustly pursuing a number of other HLP related endeavours before the end of the war that attend to socio-legal context and legislative timing. These include implementing a registry of damages, the modification of an existing digital platform ‘diia’ to accommodate HLP claims (described below), and an analysis of damages and plans for reconstruction by the Ministry of Regional Development and the Ministry of Infrastructure.

Meanwhile many communities are currently engaged in the development of reconstruction plans, often supported by direct relationships with international donors. These efforts reflect a broad outlook in Ukraine of acting on HLP matters before the war is over.

Ukraine’s international partners are also acting prior to the end of the war in ways that reflect a greater understanding of the socio-legal context. The UN General Assembly has created an International Registry of Claims for HLP and other transgressions for Ukraine; and has called for willing member states to begin reconstruction preparations (Giorgetti et al., 2022). The international financial community is examining ways to use Russian assets of various kinds for financing reconstruction, including for HLP (described below); and the World Bank, the EU, several UN line agencies, and an array of bilateral partners and private interests are moving forward now on a variety of HLP-related endeavours (e.g., Tamma, Politi, 2023; Dubois et al., 2023; USAID, 2023; World Bank, 2023). All this activity is an indication that the conventional practice of waiting until a war is over to begin to act on HLP issues, has now hopefully changed.

4.2. Financing: sources, monetizing claim, remedies

The funding of large-scale HLP restitution processes has bedeviled all war recovery efforts across countries and decades (e.g., Hurwitz et al., 2005; IOM, 2008; GPC, 2020). The needed personnel, equipment and offices, the cost of processing hundreds of thousands to millions of claims, as well as funds for compensation, repair and reconstruction, usually run into the hundreds of millions and are always well beyond the money available (e.g., BEEA, 2007; IOM, 2008; IBPCA, 2006). Financing HLP compensation (for loss, damage, destruction) in particular, is usually impossible to deliver in a time-sensitive, at-scale way for all claimants who are entitled, in the amounts needed (e.g., Unruh, 2022a; Hurwitz et al., 2005; IBPCA, 2006). Usually available funds must be stretched as far as possible by either reducing the volume of claims by dismissing many of them via eligibility rules, or offering as little compensation as possible to each claimant in order to close out as many claims as possible with the limited funds (e.g., Toal, Dahlman, 2011; GPC, 2020). There are restitution programmes where compensation claims are granted, but only on the caveat that they will be paid once (and if) funds become available (e.g., RWG, 2020). Meanwhile any funds provided by a national government and its international partners will need

to be taken from other recovery priorities, such as food security, emergency shelter, infrastructure recovery, etc. (e.g., Pablo, 2014). At the same time financing from the international community must be derived from often reluctant taxpayers and states who are far from the restitution problem itself; with such funding fickle, and amounts delivered often not matching amounts pledged, which in any case is never enough (e.g., Morelli, 2019; RW, 2011). The result can be a very precarious socio-political situation whereby the inability of the financing to adequately fund the restitution, compensation and reconstruction needs of large war-weary populations risks the emergence of serious livelihood distress, distrust and grievance.

The Ukraine case however presents several innovations over current financing models with the potential to attend to the dilemma described above. Broadly these involve the monetization of HLP claims and the alternative sourcing of funds; with both supported by emerging and existing national and international law. Ukraine's Compensation Law describes the country's approach to monetizing HLP claims, as opposed to closing them once paid in the conventional approach. The law defines how claims are to become the property of the state once compensation has been paid to the claimant, with the state then in a position to recoup the value of the claims from Russia at a later date (VRU, 2023; BRDO, 2023). Similarly, international approaches to monetize Ukraine's HLP claims are also emerging (e.g., Zoellick, 2024; Cholod et al., 2024; Dudik et al., 2024). In the latter context monetization is to take place when an international funding source essentially 'purchases' the claim from the initial claimant in the restitution process and so becomes the new owner of the claim. The money involved in the purchase is used by the initial claimant for compensation, reconstruction, or purchase of alternative HLP, etc., as a restitution remedy. This purchasing of claims can occur for whole categories of claims, along the lines of how HLP claims are currently processed in international best practice for assigning legal decisions and remedies to categories.² The new owner of the claims is then in a position to recoup the value of the claims from the aggressor state that caused the HLP dislocation, damage and destruction--in this case Russia. The international legal and political discussion along these

lines is now quite robust (e.g., NLI, 2022; Zoellick, 2024; Interfax-Ukraine, 2024; Ziskina, 2023; Dudik et al., 2024). This monetizing of claims is new to HLP restitution in war-affected settings. For Ukraine certain scenarios has the purchaser of claims making a profit from the arrangement thus attracting investors from the private sector (e.g., Cholod et al., 2024). Private sector approaches in particular hold the prospect of much quicker funding whereby instead of waiting for funds to be available from donor countries, the purchase of claims by investors can make funds for HLP restitution remedies available to the initial claimants right away, as is being proposed for Ukraine (Cholod et al., 2024). The different monetization approaches are considered to be fundable through combinations of the liquidation or control over frozen Russian monetary and other assets (public and private), with a few of these elaborated below.

The prospect of confiscation of Russian private and state financial assets and properties with the money then provided directly to Ukraine's recovery effort is gaining considerable momentum (e.g., WRMC, 2022; Zoellick, 2024; Tamma, Politi, 2023; Grant, 2022; Ziskina, 2023). The assets targeted range from private yachts, houses, and other properties, to business interests, to the over \$300 billion USD in state assets frozen and held by various countries. Some European countries however are leery of the direct confiscation of Russian state assets for a variety of reasons, and so can favour instead the use of the proceeds or profits earned by frozen assets, while the initial funds themselves remain frozen to possibly be returned to Russia if there is a willingness to end the war (e.g., Katanich, 2023). Also being considered is the use of state assets as collateral for recovery funding (Donovan, Nikoladze, 2023); as well as use of the \$300 billion to back loans for reconstruction (Duehren et al., 2024); which has recently resulted in the G7 loaning Ukraine \$USD 50 billion (Axworthy, Hampson, 2024). There are also approaches under development to use litigation financing to pursue lawsuits against private Russians who are sanctioned (BSF, 2023). The Ukraine Justice Alliance intends to use litigation financing to fund lawsuits against sanctioned Russians and then use the proceeds to compensate Ukrainians who have experienced losses due to the war, including for HLP. Investors who finance the lawsuits then receive a share of the successful claims. One financial institution involved estimates that the initiative has the potential to obtain as much as 1 trillion USD for Ukraine (BSF, 2023).³ A different approach uses what

² This categorization is done by organizing large numbers of claims into categories based on a set of criteria, such as location of dislocation, type or value of property, type of damage/destruction, type of evidence, etc., and then a legal decision is made and a remedy is applied to the entire category. The UN or other entity tasked with claims processing routinely uses claims categorization in large-scale restitution programmes (Haersolte-van, 2006; Holtzmann, Kristjansdottir, 2007).

³ Litigation financing is a practice whereby a party unrelated to a lawsuit provides funding to the plaintiff to assist with the legal action, in exchange for a part of any financial recovery.

Dixon (2024) describes as the creation of ‘reparation bonds’ which has the potential to unlock a separate \$300 billion USD.

In all of these approaches the legal barriers to using frozen Russian state and private assets for reconstruction (including HLP restitution) are receding (e.g., Koshiw et al., 2024; WRMC, 2023; Ziskina, 2023; NLI, 2022). The legal precept that aggressor states should pay reparations is well established (e.g., Gunnewig, 2020); with the case of Iraq’s invasion of Kuwait being a relatively recent precedent (Nebehay, 2022). In the Iraq case a compensation commission was established that garnished a percentage of Iraq’s oil payments which were used to pay a total of 52 Billion USD in damages to Kuwait (Dixon, 2024). Currently both Canada and the US have moved to establish the legal mechanisms for confiscation of Russian assets for the purpose of rebuilding Ukraine (Unruh, Goodell, 2023; LOC, 2024); and other countries are seeking to follow (ERR, 2023; Melkozerova, 2023; Currie, 2022; Moiseienko, 2022).

The repercussions of these financing innovations on Ukraine’s restitution process are potentially numerous, but five appear most important. First, the time-shift of funding availability from years after a war is over, to very soon after a war, or in Ukraine’s case during the war, will have a significant positive impact. Long delays in restitution and reconstruction funding after wars have been responsible for the emergence of hostility and violence, as large numbers of returnees are unable to claim, access, or rebuild their HLP (e.g., Bruce, 2013; Unruh, Williams, 2013). At the same time delays are used by nefarious actors to confiscate, defraud, dislocate, and transact HLP belonging to others. With a time-shift in funding however there can be a much quicker start to (re) attaching returning populations to HLP, avoiding these negative repercussions, and contributing to quicker livelihood, economic and political recovery. Second, these funding innovations potentially mean much less reliance on the fickle funding from Western taxpayers and their governments, who would otherwise be reluctantly paying for minimal (and delayed) reconstruction (Cholod et al., 2024). Third is the prospect of actually obtaining adequate, or at least more adequate funding levels for reconstruction than is usually the case, particularly if the private sector is involved. Fourth, reconstruction financing models based on confiscation of Russian state assets hold the prospect of creating a form of ‘threat leverage’, as individual asset confiscations can be explicitly linked to specific transgressions committed during the war, such as occurrences of human rights violations, targeting of residential areas, war crimes,

etc. This creates the possibility of influencing the conduct of the war (e.g., Unruh, Goodell, 2024; Panfil et al., 2023). And fifth, as the Economist (2022) notes outright confiscation of frozen assets belonging to Russia as the aggressor state, may deter future aggression by other states.

4.3. Use of technology: restitution processing speed, claimant inclusion

Use of technology for HLP restitution in war-affected states has to date primarily focused on databases of claims, so that once constructed, they can be used to rapidly process large numbers of claims by categorizing, screening, adjudicating and assigning remedies (e.g., UNHCR, 2023; DS/NRC, 2017; Haersolte-van, 2006). The construction of the database however conventionally involves a slow, laborious data entry process working from paper claims forms and often original paper documentary evidence submitted by individual claimants. The social tensions emerging from this process are significant, particularly given the number of claimants involved. Two tensions however emerge as most important. First, a claimant must gather the necessary documentation and travel in-person to the relevant location in a war-affected country to submit claims after the war is over; and needs the awareness, literacy, time, money, livelihood stability and document-based evidence to do this. This discriminates against those who are still in exile or internally displaced, older, injured, disabled, sick, without the right evidence, or unaware of the process. And, due to the exposed social position experienced by physically standing in queues for hours to prepare and submit claims, the approach also discriminates against marginalized and persecuted groups, and often women. Second, the pronounced need for the ‘claims submission to database construction’ phase to happen quickly so as to avoid the delay problems noted above, is set against the slowness of actually accomplishing this phase in the conventional approach. The potential for social volatility associated with being excluded from or experiencing long delays (often years) in this ‘brick and mortar’ approach is considerable. However Ukraine’s digital claims innovation may have found a way to circumvent these tensions.

The Ukraine government is presently pursuing a robust use of digital technology in its approach to HLP restitution and compensation. The Compensation Law describes how it will use a pre-existing public services digital platform called diia, which has now been upgraded for wartime use as a way to communicate,

file claims, and receive compensation payments (Panfil et al., 2024; Ukraine Now, 2022). While some critiques of the platform rightly argue for more security and HLP abilities aligned with transitional justice best practice (e.g., Panfil, Price, 2024), nonetheless the government's use of the existing public services platform stands to break new ground in HLP mass claims submission and processing, and is an important start. To date over 566,000 HLP damage claims having been submitted to diia (Panfil et al., 2024). The use of a digital platform in claims-making follows the country aspiring to become a leader in providing digital services for its citizens prior to the onset of the war (Price, Rodriguez, 2023).

The diia platform combines a mobile application with citizen access to digital documents and services and is intended to be available to the entire population (Panfil et al., 2024; Ukraine Now, 2022). Prior to the Russian invasion approximately 18.5 million Ukrainians (71 percent of the adult population) had downloaded the app to engage with over 70 government services. Important among these is the ability to access identification documents from anywhere—particularly useful given the millions displaced by the war. In early 2023 the government, in upgrading diia for wartime use, launched its 'eRecovery programme' within the app which allows citizens to submit HLP damage and destruction claims for compensation (Panfil et al., 2024). This ideally can occur from any location and gets around many of the discriminatory obstacles noted earlier. Subsequent to claims submission, a local commission (in the locality of the HLP in question) then evaluates the claims, with approved compensation claims then to be paid electronically (Panfil et al., 2024). This innovation is the first anywhere to engage HLP restitution and compensation digitally at scale, and while the war is still underway. Without the need to establish physical offices for claims intake, the security of important components of the process—people, claims, evidence, databases, offices—is much greater than it would be in physical locations; with Ukraine and its international partners working to strengthen the needed cybersecurity (ECCC, 2022). And of course the pre-war use and trust of the diia platform has led to a high level of acceptance of the eRecovery portal in the current situation (Panful et al., 2024).

The overall effect of populating a database with claims while a war is ongoing by engaging refugees, the internally displaced and others in direct electronic input of their own claims and evidence, results in a much quicker operational database, as is Ukraine's intent, reducing the need for conventional data entry from paper-based claims. This then facilitates

much quicker: database screening for frivolous, fraudulent, or duplicate claims (which always occur); evidence corroboration; claims categorization; legal decisions for whole categories; and the assignment of remedies. Constructing the database early in the conflict also thwarts attempts at trafficking in HLP, which is becoming increasingly common generally in war-affected countries (Unruh, 2022b), and takes place in the Russian-occupied eastern regions (FAO, 2022).

5. Conclusions: Challenges Remain

Unsurprisingly with innovations, challenges remain in Ukraine's restitution experiment—complicated by the reality that the war is still underway. However the innovations described here could be used to help manage these. While Ukraine's timely derivation of its Compensation Law during the war and much of its content comprise an important innovation, there are aspects of the law that are still more aligned with prewar, stable socio-legal settings. The law's 'case-by-case' operational focus is one of these, whereby each claim is dealt with individually by a local claims commission. Restitution processes elsewhere have demonstrated that this approach is quickly overwhelmed by the sudden surge of very large numbers of claims that will be forthcoming (e.g., Haersolte-van, 2006; Zimmerman, 2015). Instead best practice recommends categorizing claims and making decisions and assigning remedies to whole categories, as described in footnote 2. Managing claims as categories could easily be facilitated by the quickness of populating the claims database via diia, allowing for very rapid application of criteria for creating categories.

Another apparent prewar legal precept is the very short timeframe allowed for submitting claims. While the law initially stipulated claims submission needed to take place during martial law or within 90 days from the termination of martial law in the local area where the property is located, this was subsequently amended to one year (DRC, 2023a, 2023b). While this provides for submission of claims during the war—an important innovation—the one year timeframe after the end of martial law is still too short. Best practice allows claims submission several years after the end of a war (e.g., Erdem, Greer, 2018; Das, van Houtte, 2008; Holtzman, Kristjansdottir, 2007). Given the much lower cost of providing for claims submission via diia compared to a conventional brick-and-mortar approach, extending this timeframe would be easily achievable.

Also problematic is the exclusive focus on residential property in Ukrainian occupied lands, thereby excluding important segments of civil society and their property rights. Property in the Russian and proxy occupied eastern regions, and HLP belonging to renters, farms and small business are excluded from the law. While there is some discussion in Ukraine that agriculture and business property restitution may be managed by separate laws, to date these have yet to be in development. It may have been thought best to start with residential HLP, however these other segments of civil society will need to be dealt with at some point soon or risk disaffection by those property owners. Given the advantages and abilities of electronic claims submission, there does not appear to be a technical reason for their continued exclusion from the restitution process.

From a techno-legal innovation perspective, the prospect of using the diia platform for population-wide awareness raising efforts regarding what are usable forms of evidence for claims, and what claimants' legal HLP rights are, is an unrealized opportunity. Communicating to a large war-affected population about what constitutes usable evidence for HLP claims has historically been a significant challenge. In this context awareness about what is legally acceptable evidence and how to go about getting any replacement HLP-related documents within government systems will be crucial. But the awareness raising potential of diia goes beyond what the law currently requires for evidence. The platform could also be used in awareness raising regarding the value of corroborative forms of evidence that claimants may not be aware they have or can easily get. Such corroborative evidence includes: photos; recordings; testimony from relatives, friends and neighbours; maps (even hand drawn); written descriptions; and ancillary documents such as bills and contracts from electricity, water and other service providers; and importantly engagements with social media regarding HLP location such as Uber histories, food deliveries, etc. (e.g., Mellon, Panfil, 2019).

In addition the details of 'intimate knowledge' of properties that only a former occupant would know, and histories of HLP use, acquisition and occupation known by elderly occupants and their neighbours and kin, are likewise valuable but can disappear during prolonged exile (e.g., Van Metre 2017) unless those who have access to the evidence are aware of their value, and able to preserve it. In addition, important physical landmarks such as buildings, boundary markers, berms, hedgerows, crop field boundaries, tree lines, fences, walls, pillars and other property markers and signs can be destroyed as a war

progresses. Becoming aware of the importance of digitally preserving the existence of these landscape features (including their locations), before they are lost, particularly when HLP documents are lacking, maintains their utility in HLP claims. Such evidence will be crucial in the many cases where HLP documents never existed or were lost or destroyed.

The diia platform could also be used for awareness raising regarding what people's legal rights are given their position as a: dislocatee, owner, renter, squatter, borrower, landlord, victim of corruption, secondary occupant, inheritor, buyer or seller during and after the war. This is important given that lack of rights awareness (common in war-affected scenarios) can disenfranchise certain segments of the population. Unfortunately the Compensation Law as it currently stands does not include this awareness raising or use of non-documentary, corroborative evidence. However it easily could include these aspects, and in reality eventually will likely find that it has to, when such disenfranchisement emerges and if the documentation of HLP rights is not as pervasive as the drafters of the law assume.

Also lacking in a techno-legal context, are concrete plans for the 28 percent of the population that does not have access to reliable internet (Panfil et al., 2024); beyond visiting a local office to have staff assist with using diia. The prospect of a digital divide emerging with regard to the use of diia may be especially concerning in active conflict zones, rural areas, and among elderly populations (Panfil et al., 2024). However Panfil et al (2024) describe how such a divide could be attended to, by providing mobile registration services, local support centres, and offline claims submission services.

Fortunately the government of Ukraine is open to learning from its ongoing experimentation and international best practice, and appears willing to make amendments to the Compensation Law. As well the diia platform is adapting to emerging issues, acting to increase interoperability with other government e-services; ongoing development of data protocols and formats; and the response of the eRecovery portal to changing needs (Panfil et al., 2024). While challenges remain, Ukraine arguably constitutes a turning point for the conduct of large-scale HLP restitution processes going forward. It's unfortunate war and the country's response to it along with that of its international partners, are driving much needed transformation in how law, financing, and technology are brought to bear on the critical problem of returning millions of the world's forcibly displaced to their housing, land and property.

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