The international community first came to recognize the refugee right to return, and then expanded it from the country of origin to the home of origin as well. The still incomplete right to restitution regime emerged in the immediate post-Cold War years. Its underlying purpose is political: codification of restitution is meant to widen the effort of transitional justice in recreating multi-ethnic societies.

The study examines the right to restitution of returnees and their descendants in those cases when their dispossession occurred a long time ago. The objective is to ask whether rights possibly obtained by long-term secondary occupants (the current possessors of the disputed housing) could give reasons to restrict the unconditional restitution regime. The study limits its purview to post-conflict states as there are reasons to suppose that the universally defined regime does not fully account for those countries’ limited capabilities to provide complete remedy. Developments in international law on the right to return and the right to property restitution assume the role of the theoretical framework in the study. The most elaborated-upon attempt to codify the restitution regime have been the 2005 UN-adopted ‘Pinheiro Principles’, which effect to long-term secondary occupants is analyzed. A theory from an external context has inspired the question of how to make good for an old injustice. This theory, or ‘supersession thesis’, approaches the question of what is just and what is unjust by concentrating on what happened since the injustice (in this case the refugee’s dispossession from her domicile) and how possible subsequent events should affect the present. The study shows, partly by applying the supersession thesis, that there are scenarios when unconditional restitution could be considered a disproportionate remedy.

The study concludes that unconditional restitution, unconcerned by changes with time, is both impractical for the post-conflict society and unfair to those who have nothing to do with the original injustice. The new regime based on the Pinheiro Principles seems to be too unconditional as the right to restitution in full is to be applied universally. The Principles may represent such international law that discriminates against parties having acted in good faith. For instance, the disputed dwelling might have been purchased and sold many times since the initial dispossession. Compensation could, in lieu of restitution, be a suitable remedy when an unblemished secondary occupant has a significantly more genuine attachment to the disputed housing. Rights gradually obtained by others would force the international community to abandon the unconditional interpretation favoring the returnee. The parties’ situation could be compared by using the key points of the supersession thesis; restitution of housing would not be the remedy if the returnee has been able to reach a durable solution. Unconditional restitution would be the obvious remedy in all situations but return from long-term exile, in which context the secondary occupants’ rights should not be contingent on the returnees’ rights but on their own merits.

The international community should develop legal safeguards for rights of others when returnees reclaim what was theirs. Individuals have just recently become subjects in international law, and there is a general gap in international law’s internal coherence when the rights of two individuals overlap. We still have to wait for provisions guaranteeing the human rights of those who are affected by the securing of victims’ human rights.