Rebuilding after Disasters: From Emergency to Sustainability

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The title of the book says it all. It is an ambitious undertaking and so far as your reviewer is aware, one that has not been previously attempted. Building transactions, perhaps because of the time needed from the planning of a project to completion, the number of parties involved and matters over which there is little control, have a well-earned reputation for being dispute prone. As a consequence there has grown a substantial body of legal principle and terms of art solely related to the building process. By way of example, few outside the building industry would understand what a critical path was. This work, true to its title, sets out to explain these legal principles and expressions.

The first definition is of ‘Abandonment of work’ followed by 1050 more items, set out in dictionary format. The last is ‘Zero activity’. The publishers suggest that the work would be useful to architects, quantity surveyors, project managers, contractors and construction lawyers. There is no doubt that this is correct and with building law being increasingly taught as a discrete subject the work should find a place in university libraries. It would be an ideal work on the desk of any lawyer starting his or her career in building law.

Because of the nature of the book it is appropriate in a review to examine some of the concepts explained. The item as it occurs in the book is identified by quotation marks in the following text. Where a contractor requires ‘Access to adjoining land’, the difficulties created by absence of consent from the adjoining land holder are noted and the statutory solution described. In a work such as this it is not surprising to find a detailed explanation of the term ‘Bills of quantities’. The expression ‘Completion’ is explained in terms of the artificial contractual construct of ‘practical completion’ and as the culmination of a conveyancing transaction. A ‘Condition’ is explained in terms of its relationship to the expression ‘Warranty’. The authors also note the propensity of authors of standard contracts to misuse the word. ‘Consideration’ is defined in terms of the labyrinthine reasoning of the Court of Appeal in Williams v. Roffey Brothers & Nicholls. One could be forgiven for thinking ‘Day’ and ‘Death’ needed little explanation but not so when used in the context of building contracts. The provenance of the ‘Eichleay formula’ was not known to your reviewer—it is now. ‘Negligence’ is carefully defined with the caveat that liability for professional negligence or negligence in the execution of building work is ‘fast growing’. The authors rightly have some doubt about the efficacy of ‘Partnering’. It was interesting to learn that Mr G.A. Scott QC was the author of the ‘Scott Schedule’.

The dispute resolution practice of ‘Conciliation’ is seen as similar to mediation. In some jurisdictions the expression denotes a more interventionist role on the part of the third party neutral. The United Kingdom courts have been shy to incorporate the notion of ‘Good faith’ into contracts. Other jurisdictions, notably Australia and the United States, have been less reticent. The word ‘Quote’ is defined as conduct that will amount to an offer if the terms are definite enough. This is true with the consequence of the offer becoming a binding contract if accepted. Perhaps here, mention could have been made of the need for caution where a party merely wishes to communicate a price without the potential to be contractually bound.

A useful feature of the book is the fact that where an expression is defined, cross-references are provided to other related definitions. The work includes references by title to most of the standard building contracts in use in the United Kingdom. Each reference deals with the purpose and scope of the contract. There is, for instance, extensive reference to the JCT suite of contracts. In addition to these headings, where a concept is defined such as ‘Completion date’ the standard contractual provisions are included in the discussion. The book is 592 pages in length and in addition to the text there are number of diagrams where a concept is better explained graphically. The authors have compiled the work in a scholarly manner and each proposition is supported by the relevant judicial authority. Over 700 cases are cited in the table of cases and the citations are to the most up-to-date authorities.

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Rebuilding after Disasters: From Emergency to Sustainability
Edited by Gonzalo Lizarralde, Cassidy Johnson and Colin Davidson, Spon Press, Abingdon, 2010, 283 pp., ISBN 978 0 415 47254 8, £60.00

Post-disaster reconstruction is a field that has for long needed a good synthesis to follow up on the pioneering work of Ian Davis in the 1970s and 1980s. Hence, this edited volume of 13 chapters is a welcome answer to a long-standing need for a readily available source of information on the state of the art. However, the reader should note that it is a book about the reconstruction of housing, not the restoration of infrastructure, cultural heritage or other elements of the built environment. Despite a slightly misleading title, the book does
a good job of summarizing recent experience in rebuilding vernacular dwellings in a wide variety of settings. By taking a fresh approach to the issues involved, it avoids platitudes and questions orthodox wisdom, which leads it to expose some remarkable paradoxes.

A major earthquake, flood or storm can leave hundreds of thousands of people homeless in a very short space of time and can thus create a massive and immediate demand for shelter. Over the years a body of theory has built up—or perhaps merely accreted—on how to manage the recovery and reconstruction phases. The first chapter of this book, written by the editors, questions a number of dearly held assumptions about the processes involved. To begin with, natural events such as earthquakes and volcanic eruptions do not necessarily lead to natural disasters. In earthquakes, for example, the death toll is more a function of the seismic resistance of the building stock than it is of the geophysical attributes of the tremors. Secondly, the effectiveness of reconstruction is not necessarily a function of its speed. Neither is it always necessary to have emergency, transitional and permanent shelter phases. Moreover, the authors do not automatically favour either ‘top-down’ or ‘bottom-up’ approaches to reconstruction, and they note the pitfalls of both centralized decision making and community participation.

The editors of this book use the ‘pressure and release’ model (from Blaikie et al., 2003) to analyse vulnerability to disaster on the basis of root causes, dynamic pressures and unsafe conditions, as mobilized by hazard impacts. They deduce that the key to sustainable reconstruction is a mixture of social and economic responsibility coupled with good environmental management. Economic probity provides the means of reconstructing houses, social integration facilitates community and supplies the workforce, and environmental protection helps ensure sustainable livelihoods.

The theoretical models presented in this book are based on a wealth of field observations, many of which are enriched by direct comparison with each other. Thus, Gonzalo Lizarralde looks at low-cost solutions to the post-disaster housing problem in South Africa and Colombia. He deduces (p. 29) that ‘Slums … are not as hopeless, disorganized, spontaneous and chaotic as external observers usually think. Instead, they are created by a sophisticated “industry” and a complex system that almost nobody recognises but which is capable of building shelter for millions of poor families worldwide: this is the informal sector’—another paradox exposed.

Rohit Jigyasu examines the rebuilding of Gujarat after the 2001 Bhuj earthquake and notes that in only a few years safe buildings had already had seismically unsafe modifications and extensions added to them. He adds (p. 67) that ‘Technology, whether it is traditional, modern or alternative, will only be successful if it caters to multiple criteria’. Thus, focusing on one objective (for example, seismic resistance) can make housing vulnerable or unsuitable in other ways (perhaps in terms of cost or serviceability).

Cassidy Johnson uses examples from Turkey to illustrate the pitfalls and dilemmas of temporary housing, such as prefabricated units that long exceed their design life. One of the key issues is how to integrate temporary dwellings with the long-term plan for reconstruction. In many disaster aftermaths this issue has been avoided and the results have been less than inspiring. As Colin Davidson observes in the next chapter, lack of adequate organization may be a key reason why reconstruction fails, as it is bound to involve complex processes of planning, procurement and building.

Various chapters deal with the issue of stakeholder participation in post-disaster reconstruction, which turns out to be thornier than one might imagine. Isabelle Maret and James Amdal chronicle the progress of an emergent group in post-Katrina New Orleans, and how it struggled with delays and bureaucracy but in the end found a common motivation and a sense of community. Graeme Bristol describes a very different situation in Thailand after the tsunami of 2004, in which the local community gained cohesion as a result of persistent threats from land-grabbers. In this instance, home-grown solidarity was not enough and a good team of lawyers was needed.

With reference to India, Jennifer Duyne Barenstein compares reconstruction after the 1993 Maharashtra and 2001 Gujarat earthquakes and the 2004 tsunami in Tamil Nadu. By and large, state governments in India have proved sensible and adaptable in the face of disaster and, where local communities have been able to articulate their needs sufficiently well, the reconstruction has proceeded equitably. However, progress has not always been linear. In Tamil Nadu the overwhelming abundance of foreign funds led to a number of serious mistakes and the construction of housing that was not fit for purpose. By studying a local community in post-earthquake El Salvador, Alicia Sliwinski examines the politics of participatory reconstruction and finds that, despite the good intentions, there was almost as much conflict as there was cooperation among the beneficiaries and stakeholders. This raises the question of who should lead reconstruction, indigenous people or external authorities?

Nese Dikmen extends the analysis of participation by looking at what the users of post-disaster housing actually require. After analysing some examples from Turkey, she concludes that reconstruction must be tailored to the social, cultural and economic needs of individuals or small groups of beneficiaries. In the next
chapter, Roger Zetter and Camillo Boano advocate a balanced approach that combines the best attributes of the 'top-down' and 'bottom-up', or beneficiary-driven, approaches. They analyse settlement layouts in cases where the availability and safety of land for rebuilding are issues. They conclude that "The housing sector should be a catalyst for relief and development interventions which ... can lead to effective sustainable development, particularly if the affected population is involved" (p. 225).

Lee Bosher investigates reconstruction after cyclone damage in Andhra Pradesh state, India. He finds a sorry catalogue of structural inadequacies, poor-quality materials, debt burdens and inappropriate designs. The 'top-down' protagonists, he argues, should enforce standards, while the 'bottom-up' ones should be made aware of simple, relatively cheap means of making their dwellings resistant to cyclones and should be empowered and drawn out of marginalization. In a brief final chapter, the editors draw the threads together and advocate a systems approach to planning for the complexity of the reconstruction process.

In synthesis, this book is rich in both theoretical models and field observations. It does well to unite them, but its greatest strength is that it is not afraid to face up to the complexity of the reconstruction process and question years of orthodox but inadequate practices. There are inevitably some repetitions and overlaps, for example regarding the vulnerability of reconstructed housing in India. The geographical coverage is good but not perfect, in that high- and middle-income countries and regions are effectively represented by the USA and Turkey, without coverage of some other interesting examples, such as Italy and Greece. Nevertheless, this is a stimulating and valuable book that sets the record straight on post-disaster housing worldwide.

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References
