Briefing

iied tana

Policy pointers

The federal government of Somalia must ensure the constitutional review process addresses the issues of land rights and property management, as well as design concrete dispute resolution mechanisms.

The Benadir Regional Administration needs to develop settlement management guidelines that adapt and respond as the displacement situation in Mogadishu evolves.

These guidelines should respond to the vulnerabilities of segments of the Mogadishu population including internally displaced people, female-headed households, single women and young men, and people living with disabilities.

The international community must support the ongoing constitutional review process, particularly land and property registration and management, while encouraging the improvement of policy development, legislation and its implementation.

Shelter for all: towards more inclusive housing in Mogadishu

Access to land and shelter in Mogadishu is governed by a complex system of formal and informal mechanisms. While wealthier people can resort to bank loans and notaries to secure housing, for the city's poor, displaced and vulnerable, finding shelter in informal settlements is more difficult. In these overcrowded and underserviced parts of the city, access to shelter is controlled by 'gatekeepers', who operate in an opaque system and control access to housing, services and humanitarian aid. People with few resources must rely on their personal connections to find a place to live. Some groups like female-headed households, young single men or people living with disabilities are excluded from these networks due to prejudice and isolation. Finding sustainable housing solutions for all Mogadishu's residents has become a top priority for the local government.

After the fall of Siad Barre's regime in 1991, Somalia was plunged into a decades-long civil war that lasted until 2011, when terrorist group al-Shabaab was ousted from Mogadishu and the federal government of Somalia (FGS) regained control over most of the country. However, conflict continues due to ethnic fighting, land disputes and natural disasters, which lead to thousands fleeing their homes. It is estimated that today over 1.1 million Somalis live in situations of protracted internal displacement,[1] most of whom flock to the capital, Mogadishu.

Challenges facing Mogadishu's ability to provide shelter

Mogadishu is the city with the highest urbanisation rate in Africa,[2] with approximately 600,000 internally displaced people (IDPs) having fled their homes due to conflict — particularly in the Middle Shabelle and Bay regions — and natural disasters. As a result, the city's ability to provide housing for all its residents is under enormous pressure. The IDPs settle in informal settlements in and around the city that lack the most basic services, and share these neighbourhoods with the city's poorest residents. This situation, exacerbated by the scarcity of land and sky-rocketing price of real estate, creates an opaque system where formal institutions, such as banks and government, are absent or out of reach for most. In this vacuum, informal mechanisms govern access to shelter and services. The provision of essential services in these informal settlements can create incentives for some actors to exploit vulnerable residents.[3]

Securing equal access to land and shelter

Land rights and access to land are key drivers of Somalia's conflict — and this applies to vulnerable populations seeking shelter in the capital too. To access land and/or shelter, the

middle class Mogadishuite can negotiate with landlords and/or the local chieftaincy in the area of interest, after which the transaction is registered by a notary. However, most Mogadishuites cannot afford a notary and do not have access to formal banks for loans, instead relying on their informal network — relatives, community leaders, clan members, powerful landlords — to access housing finance. To finalise the transaction, they need a guarantor to vouch for them and to facilitate their acceptance into the resident community. Thus, social relations are a determining factor in accessing housing, especially for vulnerable people, as there are no laws enshrining their right to land/shelter. This is exemplified in the Shangani district and the inner parts of Deynile and Hodan, where informal settlers reside on prime land in the city centre. These people have been living in Mogadishu for decades and have developed informal networks within their neighbourhoods. Despite lacking the legal right to reside on this land, these networks can help protect them from forced eviction. Most of these informal settlers identify as poor and not IDPs, although some self-identify as IDPs in the hope of accessing humanitarian aid.[4]

Land ownership controversies

The lack of a comprehensive land registry and the influence of informal power-holders (such as 'gatekeepers' who provide access to informal settlements, powerful landlords or real estate owners) on land allocation are challenges for the

> *The only way to achieve equal and fair access to land and shelter for Mogadishu's vulnerable populations is to empower local government*

city in terms of providing land for shelter for the poor and IDPs. According to the Benadir Regional Administration[5] (the BRA), there is an urgent need for land for both public services and to settle migrants and IDPs as a long-term solution to the protracted IDP situation in Somalia. From research excursions through the city, it is clear that there is indeed unoccupied land available in the Kaxda and Deynile districts. However, according to interviews with the BRA and other stakeholders, this land has been 'grabbed' as 'community land' by powerful local chieftaincies. This land-grabbing contravenes the constitution which states that all 'new land' should be owned by the government. Our research interviews revealed that, for many Somalis, land ownership is entwined with a sense of belonging and identity. Given the historical use (or misuse) of land by the Barre regime, it remains an explosive topic. This also means that repossessing this land would need careful negotiations with the local chieftaincies and could lead to conflict.

Role of the gatekeepers

Research on access to shelter in Mogadishu conducted by development consultancy Tana Copenhagen provides an overview of the complex formal and informal systems governing housing, services and livelihoods for the city's residents, and especially the most vulnerable groups (see Box 1). In the absence of BRA- or UN-managed IDP settlement areas, newly arrived IDPs need to go through the so-called 'gatekeeper system' to access shelter. The gatekeepers are entrepreneurial Mogadishuites or former IDPs who arrange for land with the local landlords or chieftaincies and then provide access to shelter (including land, security and basic services).[6] However, there is a lack of transparency and accountability surrounding this system, which allows for exploitative behaviour from the gatekeepers towards IDPs.[7] Furthermore, as government is largely absent from these areas, a mix of rules and norms including customary law, Shari'a and corrupt legal channels govern the construction and management of shelter. This lack of a codified legal framework is further complicated by the fact that maintaining security remains a key challenge in Mogadishu.

The result is that many of Mogadishu's residents live in temporary shacks with little access to water, electricity, waste collection and sanitation, and in constant fear of eviction. Many also face challenges in pursuing livelihood opportunities, particularly if they live far from the city centre as transport and road infrastructure is poor. Certain groups are especially affected by these

---

Box 1. Research methodology

This research on the systems governing access to shelter and land in Mogadishu is part of the study on 'Shelter provision in East African cities: understanding transformative politics for inclusive cities' for the East African Research Fund (EARF), managed by the Institute for International Environment and Development (IIED) and funded by the UK government's Department for International Development (DFID). It is based on desk research of available secondary data and more than 20 interviews with key policymakers, private sector operators, real estate agents, nongovernmental organisations and academics in Mogadishu and Nairobi, as well as interviews and social mapping exercises with over 100 informal settlement residents. Mogadishu is a highly volatile, rapidly changing context and presents challenges to undertaking research. Security concerns constrained access to informal settlements and their residents, and at times prevented the team from ensuring perfect randomisation in their choice of sample. Despite best efforts to be inclusive, certain groups may have been left out of the research and our findings are not representative of all the city's informal settlement residents.

challenges: single/widowed/divorced women and female-headed households, people living with disabilities and young men. While all these groups depend on external support to access shelter, whether from relatives or the community or humanitarian organisations, young single men experience the greatest difficulty in accessing secure housing, being the most isolated from personal networks. They are largely excluded from political and social life in the settlements and often suspected of causing trouble or being susceptible to joining al-Shabaab. To some extent, women and people living with disabilities can rely on the community's support.

Therefore, it is important that the BRA takes ownership of the management of the settlements to implement durable solutions for the city's displaced in a way that includes the needs and voices of all vulnerable and marginalised groups.

Fresh initiatives to resolve shelter challenges

In the last couple of years, a number of development partners have started supporting the government and the BRA in resolving some of these issues. Both will need continued support if the problems are to be overcome in the long term. They include:

- In Mogadishu, the EU RE-INTEG programme,[8] through the BRA, is supporting the sustainable reintegration of refugees and returnees from Yemen, Kenya, Europe and other areas, as well as IDPs, to settle permanently within Somalia. It works by creating a favourable environment for the economic and social development of the returning displaced communities. The programme will also 'enhance the capacities of the relevant government institutions to assume their primary responsibility for reintegrating their citizens and facilitating their access to basic rights and services within a more adequate framework'.[9]

- The UN Joint Programme for Local Governance and Decentralized Service Delivery (JPLG) aims to support local governance to contribute to peace and equitable service delivery for all Somalis. The programme works with 'central administrations and local district councils to establish and strengthen policy, institutional frameworks, structures and systems to improve local governance and the delivery of basic services at the local level'.[10] JPLG has recently started supporting: the planning and budgeting process of the BRA and related planning around lasting solutions; Tana's study

on gatekeepers, the IDP policy[11] and settlement management guidelines with the BRA;[12] and an upcoming DFID programme on urbanisation in Somalia.[13]

- UNHCR is supporting the BRA to develop settlement management guidelines that aim to increase transparency and accountability for all actors intervening in Mogadishu's informal settlements (District Commissioners, gatekeepers, international nongovernmental organisations, local civil society organisations, security forces and so on). The purpose of the settlement management guidelines is to provide a framework for finding sustainable solutions for the informal settlement residents. As a part of the guidelines, the BRA will develop minimum standards for what each settlement should provide in terms of infrastructure and services. These minimum standards could also apply to building regulations.

Conclusions and ways forward

All these interventions highlight recognition of the fact that the only way to achieve equal and fair access to land and shelter for Mogadishu's vulnerable populations is to empower local government in their role to serve and protect these populations. With the right support from the international community and donors, the BRA will embody a strong, responsive authority by providing access to shelter and services to all Mogadishuites, developing minimum standards for housing and infrastructure, and increasing accountability and transparency among all actors involved.

Based on its research, Tana has come up with four central recommendations for the various stakeholders involved in land, shelter and service provision in Mogadishu to improve access to these for vulnerable groups:

  1. For the federal government of Somalia (FGS): continue the process of constitutional review[14] and ensure that this addresses the issue of land rights around land and property management, as well as concrete dispute resolution mechanisms.

  Somalia's current provisional constitution, dating from 2012, is under review until a permanent constitution is approved, expected in 2019. It is critical that the review process addresses matters relating to land rights and property management so that all citizens' rights to land and housing are protected, and that the judiciary has the tools to ensure accountable dispute resolution mechanisms for all citizens.

2. For the BRA: first, continue the development of settlement management guidelines that adapt and respond to the context as the displacement situation in Mogadishu evolves over time.

Mogadishu's informal settlements are not formally run by any government institution or aid agency, which is the key reason why the gatekeeping system has been able to proliferate. As the local government, the BRA should have ownership of settlement management to ensure transparent and accountable protection of residents' rights, as well as minimum standards for living conditions in the settlements.

3. Second, ensure that the guidelines relate to the vulnerabilities of segments of the Mogadishu population including IDPs, female-headed households, single women and young men, and people living with disabilities.

Some members of the population living in the informal settlements are particularly vulnerable to issues regarding access to shelter and services. The BRA must take the needs and circumstances of these groups into account in settlement management and involve them in the decision-making process.

4. For the international community: support the ongoing constitutional review process with a specific focus on land and property registration and management, while supporting relevant new opportunities for improving policy development, legislation and its implementation.

To implement reforms, the FGS and BRA will need continued, long-term support from donors and international nongovernmental organisations to achieve durable solutions for the city's displaced population, both in terms of funds and technical assistance.

Erik Bryld, Charlotte Bonnet and Christine Kamau

Erik Bryld is managing director at Tana Copenhagen. Charlotte Bonnet is a consultant at Tana Copenhagen. Christine Kamau is an associate consultant at Tana Copenhagen.

Notes

1 Rift Valley Institute and Heritage Institute for Policy Studies (2017) Land Matters in Mogadishu: Settlement, ownership and displacement in a contested city. www.refworld.org/docid/58b973e84.html / 2 Norwegian Refugee Council (2018) As Somalis flee to cities, Mogadishu becomes the most crowded city in Africa. www.nrc.no/news/2018/december/as-somalis-flee-to-cities-mogadishu-becomes-most-crowded-city-in-africa / 3 Bryld, E, Kamau, C and Sinigallia, D (2013) Gatekeepers in Mogadishu. The Somali Cash Consortium. http://www.cashlearning.org/downloads/1376766704.pdf / 4 United Nations Population Fund (2014) Population Estimation Survey 2014 for the 18 Pre-War Regions of Somalia. http://reliefweb.int/sites/reliefweb.int/files/resources/Population-Estimation-Survey-of-Somalia-PESS-2013-2014.pdf / 5 The Benadir region covers the same area as the capital city of Mogadishu. Although it is the smallest Somali region by size, it is by far the most populated, estimated at over 1,650,000 people in 2014. / 6 Bryld, E, Kamau, C, Møller, SK and Mohamoud, MA (2017) Engaging the Gatekeepers – Using Informal Governance Resources in Mogadishu. Tana Copenhagen. https://tanacopenhagen.com/wp-content/uploads/2017/03/Gatekeeper-paper.pdf / 7 Human Rights Watch (2013) Hostages of the Gatekeepers – abuses against internally displaced in Mogadishu, Somalia. www.refworld.org/docid/5152c1002.html / 8 Implemented by UN-Habitat (as lead), UNDP, UNHCR, CESVI, SWDC and SIDO. / 9 European Commission, The European Union Emergency Trust Fund for Stability and Addressing the Root Causes of Irregular Migration and Displaced Persons in Africa. https://ec.europa.eu/trustfundforafrica/sites/euetfa/files/rider_t05-eutf-hoa-so-03_-_re-integ-1.pdf / 10 ILO, UN Joint Programme on Local Governance and Decentralized Service Delivery. www.ilo.org/africa/technical-cooperation/WCMS_231472/lang--en/index.htm / 11 The BRA IDP Policy, launched in January 2019, was developed to provide a coherent and coordinated response from the BRA to the current IDP crisis in the city of Mogadishu. The policy has a durable solutions outlook and covers access to land, tenure security and inclusive development; individual documentation, social inclusion and participation; access to services and labour markets; and rural integration capacity. / 12 The BRA, with support from UNHCR, is developing a set of Settlement Management Guidelines that clearly delineate the rights of people living in Mogadishu's informal settlements, as well as the chain of command of all entities involved in the management of the settlements, with the BRA in the lead. The guidelines are expected to be implemented towards the end of 2019. / 13 Land issues remain one of the key areas still to be addressed in the constitutional review process, as well as in federal and state legislation. / 14 Fitzgerald, K (2018) Somali constitutional review process launched as historic convention concludes in Mogadishu. UNDP Somalia. www.so.undp.org/content/somalia/en/home/presscenter/pressreleases/2018/05/15/historic-3-day-convention-on-somali-constitution-concludes-in-mogadishu.html