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A photograph of a refugee camp in Baidoa, Somalia. In the foreground, a woman wearing a bright pink headscarf is seen from behind, looking towards a group of people in the distance. The ground is dry and dusty, with scattered debris and makeshift structures. Several yellow water jerrycans are visible on the left. The sky is blue with scattered white clouds.

**“I want my land.  
You have to go.”**

Understanding the eviction phenomenon in Baidoa



## ACKNOWLEDGEMENTS

This report would not have been possible without the support of NRC Somalia. The technical team that supported the research process included: the Durable Solutions Manager in Somalia Shezane Kirubi, the Regional Information, Counselling and Legal Assistance (ICLA) adviser for East Africa and Yemen Evelyn Aero; the Head of Office in Baidoa Kassim Mohamed; the Somalia ICLA specialist Joseph Jackson; the ICLA Manager Abdirisak Aden; and the ICLA officer Amir Mohamud.

This report was researched by Christopher Wade and edited by Kate McGuinness. Specific efforts were made to ensure a diverse cross-section of views with over 30 Key Informant Interviews (KIIs) with government actors at the South West State level, donors, United Nations (UN) agencies, International Non-Governmental organisations (INGOs), Civil Society Organisations (CSOs), academics, and community leaders. Lastly, NRC would like to thank the Displacement Affected Communities (DACs) in Baidoa, who provided extensive information and shared their experiences to inform this study.

This document has been produced with the financial assistance of the European Civil Protection and Humanitarian Aid Operations (ECHO); and the Foreign Commonwealth and Development Office (FCDO). The contents of this document are solely the responsibility of the Norwegian Refugee Council (NRC) and can under no circumstances be regarded as reflecting the position of ECHO and FCDO.



Co-funded by  
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UKaid  
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# "I want my land. You have to go."

## Understanding the eviction phenomenon in Baidoa

August 2021

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### FRONT COVER

Scene of IDP households evicted from  
their settlement in Baidoa.

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### INSIDE COVER

Portrait photo of woman evicted from  
her shelter in Somalia.

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**Caption:** Portrait of woman in IDP settlement in Somalia.

## LIST OF ACRONYMS

CCCM	Camp Coordination and Camp Management
CDR	Collaborative Dispute Resolution
CGI	Corrugated Galvanised Iron
DACs	Displacement Affected Communities
DC	District Commissioner
DSRSG / RC / HC	Deputy Special Representative of the Secretary-General, Resident, and Humanitarian Coordinator
EIDACS	Enhancing Integration of Displacement Affected Communities
ERM	Eviction Risk Mapping
EU	European Union
FCDO	Foreign Commonwealth and Development Office
FGS	Federal Government of Somalia
FGD	Focus Group Discussion
GLTN	Global Land Tool Network
HLP	Housing, Land, and Property
HLP AoR	Housing, Land, and Property Area of Responsibility
IASC	Inter-Agency Standing Committee
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
ICLA	Information, Counselling, and Legal Assistance
IDP	Internally Displaced Person
INGO	International Non-Governmental Organisation
IOM	International Organization for Migration
KII	Key Informant Interview
MoPW	Ministry of Public Works
NCRI	National Commission for Refugees and IDPs
NDP	National Development Plan
NGO	Non-Governmental Organisation
NPRRI	National Policy on IDPs and Refugee-Returnees
NRC	Norwegian Refugee Council
PRMN	Protection and Return Monitoring Network
SGBV	Sexual Gender-Based Violence
SWS	South West State
SWCRI	South West Commission of Refugees and IDPs
UN-Habitat	United Nations Human Settlement Programme

## EXECUTIVE SUMMARY

Forced evictions remain among the most severe and prevalent protection threats in Somalia,<sup>1</sup> representing both a cause and a multiplier of the displacement crises. Congested cities with weak urban systems struggle to cope as the complex interplay between natural hazards, climatic shocks, conflict, and insecurity drive mass displacements across the country. Forced evictions also pose key obstacles to the attainment of durable solutions in Somalia. They undermine humanitarian and development efforts and further impinges on the self-reliance and resilience of these vulnerable and marginalised populations.<sup>2</sup> Likewise, Internally Displaced Persons (IDPs) remain disproportionately affected across the city, particularly women and children who constitute the most vulnerable substratum of the population. Internally displaced women, for instance, face multiple layers of vulnerabilities such as exploitation by unscrupulous landlords, the threat of forced evictions, and a sense of disempowerment due to regressive social attitudes linked to the exercise of control over land and housing. This situation exacerbates, as during displacement, women and girls live in disrupted and uncertain environments where traditional protection mechanisms no longer exist. Consequently, eviction as a problematic phenomenon remains a foundational imperative to addressing forced displacement in a realistic, comprehensive, and sustainable way. To achieve this, a critical first step is to gain a deeper understanding of the underlying intricacies. It is against this backdrop that NRC commissioned this study.

From 2017 to June 2021, NRC has systematically documented the forced evictions of 1,023,829 individuals in Somalia.<sup>3</sup> Of this total, 124,271 eviction incidents took place in Baidoa, thus recording the third-highest level of documented forced evictions in Somalia, following two districts in Mogadishu.<sup>4</sup> Baidoa District, which is the interim capital of the South West State hosting more than 430,000 displaced individuals,<sup>6</sup> represents a quintessence of the dynamics and challenges confronting displaced populations across Somalia. In 2017, for example, Baidoa received the largest number of drought-displaced persons, with the majority forced to either create new unplanned sites or join existing settlements due to the limited absorption capacity. As Baidoa expands and competition for resources increases, IDPs are typically transformed into the urban poor and integrated into desolate settlements with few livelihood options. Forced evictions in Somalia are frequently associated with the lack of land tenure security when displaced people settle spontaneously on largely private lands. This precarious settlement pattern intersects with a complex and embedded political economy influencing flows of and access to humanitarian assistance. Forced eviction events also affect the formation and spatial settlement of urban areas where displaced populations live. Following evictions, individuals often relocate to peri-urban areas, which are increasingly the source of speculation and investment. These areas are tenure insecure or eviction-prone, which places these individuals in challenging protection situations. The Baidoa case study demonstrates the link between rapid urbanisation, rising land values, and cyclical displacement through forced evictions. These accelerated urbanisation

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Caption: Training session on the enforcement of the eviction moratorium in Baidoa.

rates have given rise to complex political economy dynamics that contribute to further secondary and tertiary displacements through forced evictions in the urban context. Forced evictions in Baidoa revolve around a set of intertwined dynamics that include: the reliance on verbal tenancy agreements; increasing land values; accelerated and unplanned urbanisation; the commodification of IDP settlements; increase in development-based land or property acquisitions; limited legal and policy frameworks around Housing, Land, and Property (HLP) rights; and the rise in land disputes. This study highlights how the convergence of these dynamics has enabled a situation whereby forced evictions have thrived due to the absence of legal repercussions for those affecting them.

Furthermore, a critical point of analysis for this study was examining how the political economy of IDP settlement management underpins the phenomenon of forced evictions in Baidoa and Somalia at large. The varied practices in land acquisition, land use, and ownership have increased land speculations, consequently contributing to mass evictions of displaced people. Yet land ownership is often mobilised to retain political rights and citizenship, also intertwined with practices of sovereignty. Gatekeepers, who constitute an informal governance structure, are described as a private business response that has emerged to fill the void of informal settlement management, including service and security provision, for displaced people in Somalia.<sup>7</sup> The absence of an effective rule of law environment is the main contributor to the rise of gatekeepers in the provision of land and services to displaced people.<sup>9</sup> In Baidoa, gatekeepers play an influential role in coordinating settlement arrangements between displaced populations and landowners. They are the fulcrum around which IDP settlement business activity revolves, beginning from the point of arrival to attracting services and assistance to specific locations. There are multiple dynamics surrounding gatekeepers in Baidoa. Gatekeepers, for instance, can themselves be displaced people or be hired from host communities by the landowner: either as appointed caretakers of land or as tenants who then sublet to other displaced people or host community members as a business arrangement. Additionally, gatekeepers can be one of a limited number of individuals privy to the actual arrangements and

circumstances around the land tenure situation at the IDP settlement. They may also be the custodian of the documentation or written agreement that formalises these arrangements if they exist.

Consequently, limited access to land remains a critical trigger for conflict in Somalia. The absence of a robust regulatory framework has weakened the overall protective environment for DACs. In Somalia, land governance is characterised by a situation of legal pluralism consisting of three systems of law: statutory (formal) laws, Islamic or Sharia laws, and the customary (xeer) law.<sup>9</sup> The lack of a robust legal and policy framework and the multiplicity of alternative avenues of recourse have complicated land transactions in Somalia. Additionally, harmful cultural practices and engendered social norms and Somalia's patriarchal society limit the application of just laws and are one of the barriers to women's HLP rights. Within a male-dominated environment, women are excluded from decision-making processes, having their voices heard, and asserting their will, or fighting when their rights are denied.<sup>10</sup> Despite these challenges, more recently, Somalia has adopted a range of policies that aim to strengthen the protection environment for DACs. Notably, these policies include the National Policy on Refugee-Returnees and IDPs, the Interim Protocol on Land Distribution for Housing for Eligible Refugee-Returnees and IDPs, and the National Eviction Guidelines. A critical turning point has also been the ratification of the Kampala Convention at the end of 2019, which has paved the way for strengthening legislative protection for IDPs through domestic legislation. Likewise, the National Eviction Guidelines adopted in 2019 ensure that any evictions are carried out in a planned and legal way that protects the rights of displaced people. These Guidelines, however, are not binding and do not alter the status quo. Thus, concrete steps are needed to translate the National Eviction Guidelines into a binding legal instrument (Eviction Act). At the state level, the South West State (SWS) has initiated the development of urban land law. In 2019, the SWS cabinet enacted the Urban Land Bill, though it has not yet been assented to. The Bill is currently awaiting approval by the SWS assembly. Restoring justice will reduce the disenfranchisement and grievances that arise from abuse, inequality, impunity, and exclusion.

Besides enacting the Urban Land Bill, Baidoa also demonstrates a suite of good practices that offers a valuable case study of how coordinated government-led and multi-stakeholder interventions can be effective as complementary measures in addressing HLP violations like forced evictions. Baidoa local authorities scaled up eviction prevention efforts following mass eviction events in Mogadishu in late 2017. These incidents prompted local authorities to anticipate and proactively plan for potential evictions in other locations.<sup>11</sup> There are several notable eviction prevention and response interventions in Baidoa that this study will explore in more detail. These include: the establishment of the Bay Eviction Task Force; enhanced technical and operational capacity at the Baidoa Municipality and Cadastral Services; improved administration of tenure and lease agreements; enforcement of an evictions moratorium; increased purchasing power of IDPs; and amplification of a range of advocacy, outreach, and awareness-raising activities. This study will conclude by bringing together its key findings that provide a comprehensive analysis linking humanitarian, development, and peacebuilding efforts with the quest for durable solutions for DACs.



**Caption:** Female IDP participant at a HLP forum in Baidoa.

# 1.

## INTRODUCTION

### 1.1 OBJECTIVES OF THE STUDY

This study comprehensively explores why evictions in Baidoa continue to thrive; and then takes a deep-dive review of the factors that are fuelling, promoting, and sustaining the eviction phenomenon to advance practical policy solutions to effectively address the problem at different levels. Specific objectives of this study include:

1	Assess and catalogue existing legal, administrative, and policy frameworks that are applicable or relevant to the protection of general HLP rights, but with a thematic emphasis on evictions.
2	Analyse the cultural factors and other broader societal dynamics fuelling, promoting, and sustaining the eviction phenomenon in Baidoa.
3	Assess the effectiveness of ongoing eviction programmes in Baidoa by evaluating what is working, what are the gaps, what can be improved, and what needs to be incorporated.
4	Advance practical recommendations that will effectively address the eviction phenomenon in Baidoa.

The findings from this study aim to support the Housing, Land, and Property (HLP) work of NRC's Information, Counselling and Legal Assistance (ICLA) and durable solutions programmes in promoting and strengthening HLP rights for Displacement Affected Communities (DACs) in Baidoa.



Caption: Aerial photo of IDP settlement in Baidoa.

## 1.2 STRUCTURE

This study is structured over nine sections:

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**Section 1:** Introduction sets out the background to the study and its structure.

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**Section 2:** Methodology describes the methods of inquiry used in the study.

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**Section 3:** Context presents an overview of the displacement situation in Somalia, impact of displacement on urbanisation, forced evictions in Somalia, the political economy of IDP settlement management in Somalia, and the gendered impact of forced evictions.

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**Section 4:** Legal and policy framework examines relevant frameworks at international, regional, national, and state levels that define, recognise and guarantee HLP rights of DACs in Somalia and in Baidoa in particular.

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**Section 5:** Baidoa as a rapidly growing city describes the expansion of Baidoa and the IDP settlement trends and dynamics.

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**Section 6:** Forced evictions in Baidoa looks at the drivers of forced evictions in Baidoa in more detail.

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**Section 7:** Eviction prevention efforts and initiatives set out Baidoa as a useful case study that demonstrates a suite of good practices of how coordinated multi-stakeholder efforts and government-led initiatives can be effective as complementary and preventive measures in addressing forced evictions.

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**Section 8:** Conclusions bring together key findings that provide a comprehensive analysis linking humanitarian, development, and peacebuilding efforts with the quest for durable solutions for DACs.

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**Section 9:** Recommendations draw upon the study's findings and analysis to present a range of policy and practice recommendations aimed at effectively addressing the eviction phenomenon in Baidoa.

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## 2.

# METHODOLOGY

The research methodology consists of three primary components: an extensive desk review, semi-structured KIIs, and fieldwork. The desk review examined project-related documents from NRC like baseline surveys and commissioned research or study reports and documents from other local and international organisations operating in Baidoa. Similarly, available documentation on HLP rights in other parts of Somalia (like Banadir Regional Administration and Puntland) was part of the extensive literature review to identify any significant areas of difference or best practices between the different regional models. The literature reviewed was obtained from three sources: NRC in response to a request for available relevant documents, through an Internet trawl, and from reports and studies supplied or recommended by Key Informant Interviews (KIIs). Second, over 30 interviews were conducted remotely between 10 November and 22 December 2020 with a varied cross-section of local authorities, humanitarian, development, and peacebuilding actors. The KIIs were selected based on their knowledge of forced evictions, durable solutions, and protection matters in Somalia. Third, nine Focus Group Discussions (FGDs) took place at four different settlements for IDPs and one host community in Baidoa. NRC ICLA field staff and paralegals facilitated and moderated the FGDs. These discussions were compared with the in-depth KIIs for triangulation to validate the research findings.

The key value-added to this research process was the vast experience of the NRC Somalia team in HLP matters and the extensive literature on HLP related issues in Somalia. The majority of the available literature includes a significant body of work commissioned by NRC over time as part of its operations in Somalia and the Horn of Africa Region.

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### 2.1 LIMITATIONS

This research experienced some limitations. First, due to the COVID-19 pandemic, this study was carried out remotely. All interviews with key informants took place through online platforms. The NRC ICLA field team conducted the FGDs, and an external consultant and NRC team further analysed the findings from these discussions. Although most participants were using online platforms during quarantine or lockdown, there were challenges with connectivity for some. Due to the poor network, some interviews were either cancelled or rescheduled. Second, where this study references information reported by other people, it is imperative to understand that this is how the speaker perceived the situation. It is not surprising that there were instances of conflicting accounts from different people. This situation is due to the wide variety of contexts in Somalia. Third, there are always potential issues of accuracy where multiple languages are in use. Questions and answers during the FGDs, for example, were translated between Somali dialects and English. Finally, the growing interest in forced evictions among stakeholders in Somalia means that many relevant interlocutors had already interacted with other researchers asking similar questions, resulting in interview fatigue among those who do not see substantive change resulting from such interviews.

### 3.

## CONTEXT

### 3.1 DISPLACEMENT IN SOMALIA

Somalia's prolonged humanitarian crisis is characterised mainly by ongoing conflicts and climate shocks, exacerbated by widespread poverty, limited governance, and large-scale and protracted internal displacement. Since the beginning of 2020, three major additional shocks – extensive flooding, a desert locust upsurge, and the global COVID-19 pandemic – have contributed to a further deterioration of the humanitarian conditions of many Somalis.<sup>12</sup> Protracted displacement presents persistent challenges to the longer-term development trajectory of Somalia, including the attainment of durable solutions for DACs. Recent estimates indicate that there are approximately 2.6 million IDPs in total,<sup>13</sup> accounting for about one-fifth of the total population. A set of complex overlapping multifaceted factors drive protracted displacement in Somalia. These are related to environment and security, which detract from peacebuilding and state reconstruction, thus contributing to fragility.<sup>14</sup> According to data from the Protection and Return Monitoring Network (PRMN)<sup>15</sup>, through 2020, Somalia had 1,336,000 new displacements<sup>16</sup> associated with floods, drought, conflict, and insecurity. The National Development Plan (NDP-8) for Somalia, for instance, acknowledged the challenges related to displacement<sup>17</sup>: *"While protracted displacement is a rather static situation, newly displaced persons regularly join existing IDP settlements adding further pressure on the community."* Largely unplanned, spontaneous, and chaotic IDP settlements in urban and peri-urban areas are characterised by high density, lack of social services, absence of livelihood opportunities, and devastating living conditions.<sup>18</sup>

Forced evictions—both a cause and multiplier of displacement—further complicates the displacement context even more. Displaced populations and urban poor for example, constantly face constant risks of secondary and tertiary displacements.

Forced evictions—both a cause and multiplier of displacement—further complicates the displacement context even more. Displaced populations and urban poor for example, constantly face constant risks of secondary and tertiary displacements. The use of informal tenancy arrangements in Somalia is a common practice and is one of the leading factors driving forced evictions. These informal agreements create a precarious situation for thousands of displaced persons due to a lack of tenure security.

### 3.2 IMPACT OF DISPLACEMENT ON URBANISATION

Internal displacement in Somalia is largely an urban and peri-urban phenomenon contributing to the acceleration of urbanisation and compounding difficult in accessing to affordable housing and basic services.<sup>19</sup> Somalia is one of the fastest urbanising countries in the world, with around 40 per cent of the population residing in urban areas.<sup>20</sup> Between 2016 and 2018, 1.6 million people left their homes, joining another 1.1 million people who were already living in protracted displacement prior to 2016.<sup>21</sup> Living in over 2,000 sites throughout the country, nearly 80 per cent of these 2.6 million IDPs are situated in urban or peri-urban settlements.<sup>22</sup>



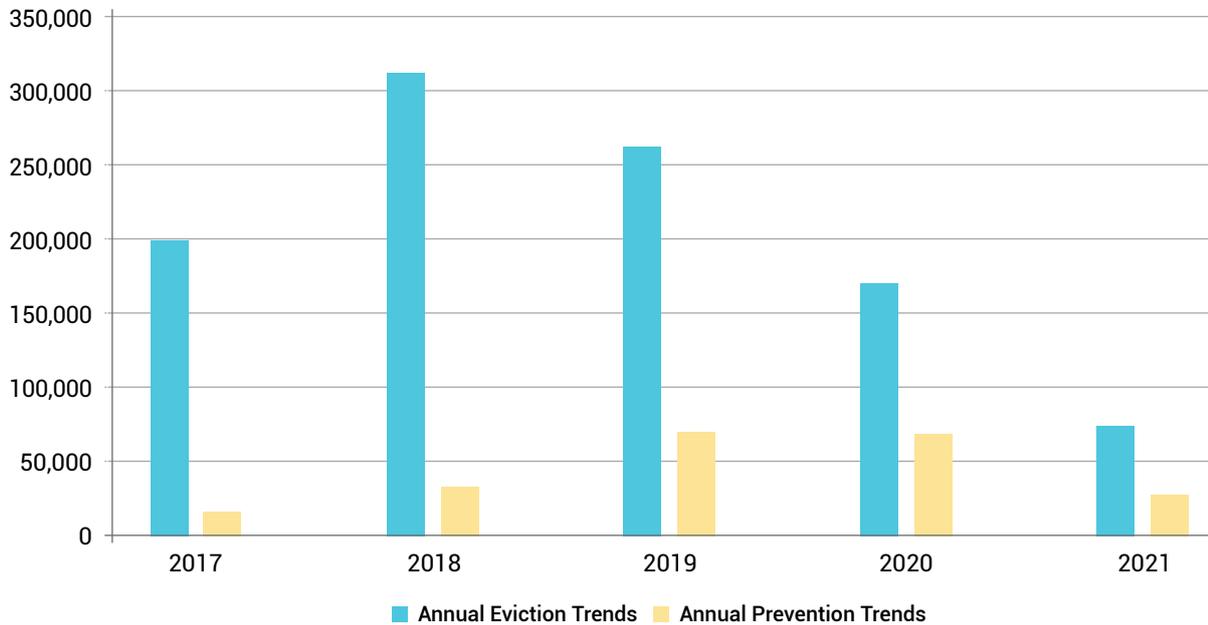
Caption: Woman in IDP settlement in Somalia.

Given the relative stability of South Central Somalia, numerous refugee-returnees and IDPs have settled in urban centres seeking stability and livelihood opportunities. This has led to the occupation of public buildings and the creation of informal settlements with housing characterised by high rent, poor living conditions and the constant fear of evictions. Urbanisation is occurring at an accelerated pace and in a largely chaotic unpredictable manner, due to the frequent cyclical climatic shocks and protracted insecurity in rural areas.<sup>23</sup> A massive inflow to cities has resulted from displacement due to drought, flooding or insecurity, and is frequently a combination of these push factors.<sup>24</sup> The pull factors of security and service provision have become central to the increasing rural-urban migration in large municipalities in Somalia.<sup>25</sup> Many of those displaced to major urban areas in Somalia indicate that they do not intend to return to their areas of origin.<sup>26</sup> The unlikelihood of return following rural-urban migration has prompted an evolution in thinking around solutions to consider displacement in the context of spatial planning and human settlements for urban areas in Somalia.<sup>27</sup> Alex De Waal astutely notes: *“Humanitarians need to pay attention to urban land tenure, to recognise that the majority of what we call ‘IDPs’ are in fact long-term urban settlers.”*<sup>28</sup>

The combination of rural-urban migration and forced internal displacement has increased pressure on the already limited basic services and urban livelihood opportunities available, which remain inadequate to respond to the needs of Somalia’s growing urban population. This has further tested the already stressed capacity of municipalities to provide basic services such as water, sanitation and hygiene, health and education, and adequate living space and housing. In addition, the population density and demographic/ethnic profile of Somalia’s urban populations is changing rapidly, increasing the risk of localised conflicts and emerging forms of social exclusion. The displacement situation is aggravated further by increased competition for livelihoods in urban settings due to an influx of displaced people from rural areas in search of jobs and improved living conditions.

### 3.3 FORCED EVICTIONS IN SOMALIA

Figure 1: Annual Eviction Statistics, Somalia (2017-2020)



Source: NRC Eviction Information Portal

Forced evictions pose key obstacles to attaining durable solutions: they violate human rights and constitute one of the most severe protection concerns for displaced people.<sup>29</sup> Forced evictions often destroy critical livelihood assets and disruption of established life routines and durable solutions strategies.<sup>30</sup> Additionally, there is a mutually reinforcing relationship between poverty and evictions: *“Poverty is both a cause and a consequence of evictions. The lack of tenure security and the inability to afford housing may compel the poor to live in informal settlements and in fear of evictions”*.<sup>31</sup>

Between 2017 and June 2021, the NRC eviction information portal has recorded 1,023,829 forced evictions that have taken place in Somalia.<sup>32</sup> Forced evictions are frequently associated with a lack of land tenure security when displaced populations settle spontaneously on largely private lands.<sup>33</sup> This precarious settlement pattern intersects with a complex and embedded political economy influencing flows of and access to humanitarian assistance.<sup>34</sup> Additionally, the lack of tenure security is an obstacle to the right of adequate housing for those living in informal settlements.<sup>35</sup> On the one hand, displaced people are reluctant to invest in improvements: *“When IDPs are evicted, they are thrown into a new spiral of vulnerability and poverty that disrupts their self-recovery. If they fear eviction, they will limit their investment in the land or house they live to a minimum.”*<sup>36</sup> On the other hand, municipal authorities often discourage humanitarian organisations from investing in infrastructure in IDP settlements that lack tenure security because of a twofold risk: infrastructure can be destroyed during forced evictions, and owners may reclaim their lands at any time.<sup>37</sup>

*“The violation of the right to adequate housing leads to spatial fragmentation and increases the risk of other human rights being compromised for groups who are discriminated, marginalised, and excluded.”*

*UN-Habitat. (2017). Human rights in cities handbook series.*

Following evictions, individuals often relocate to peri-urban areas, which are increasingly the source of speculation and investment. Those affected often relocate to tenure insecure areas, which places these individuals in challenging protection situations.<sup>38</sup> A report by UN-Habitat in 2018 examining human rights in cities highlights: *“The violation of the right to adequate housing leads to spatial fragmentation and increases the risk of other human rights being compromised for groups who are discriminated, marginalised, and excluded.”*<sup>39</sup> Additionally, the presence of IDPs in encampments located in peri-urban areas leads to an increase in property value and subsequent cycles of forced evictions. According to a study in 2019 on war and city-making in Somalia: *“Once a camp is integrated into the city’s commercial, infrastructural, and trade networks, the value of the land rises. The landowners often wish to develop the land or sell it to private investors, with the consequence that the camp inhabitants are once again forced to move.”*<sup>40</sup>

At the same time, humanitarian investments often lead to rising land values, which may inadvertently have negative effects- by becoming a motivation for landlords to raise rental fees or to evict tenants in order to pursue alternatives entailing a higher financial return.<sup>41</sup> According to the NRC eviction information portal, development-based land or property acquisitions are one of the leading causes of forced evictions in Somalia.<sup>42</sup> Development-related causes are categorised into owner-driven, private investments, and government development. Somalia has an active land market and a pipeline of urban infrastructure projects by the government and development actors, which has led to increased land values.<sup>43</sup> Likewise, the improved security situation in many parts of Somalia has led to many landowners returning to claim back the land they lost during the civil war for development. Diaspora claims to property inheritance have become even more complex as they pit customary

land rights, registered land titles, and forceful takeovers against each other. Another driver of forced evictions in Somalia is arbitrary rent increases by landowners. Findings from a post-eviction assessment carried out in Mogadishu, for example, explain: *“IDPs live in unplanned informal settlements that are, in most cases, constructed on private lands; they pay a monthly rental fee but are not issued any form of a documented tenure security agreement, relying on informal oral agreements. Rent is paid either in cash or in-kind, including with the humanitarian aid commodities they receive.”*<sup>44</sup>

Furthermore, the lack of formal tenure security places displaced people in a precarious position characterised by uneven power dynamics. IDPs are susceptible to the capricious decision-making of more powerful landowners and land managers. According to the 2016 NRC advocacy package on HLP rights: *“IDPs are at the mercy of landowners and gatekeepers as they have no entitlement to their place of residence. Landowners often breach informal land tenure arrangements while gatekeepers control access to the IDP settlements including, [humanitarian] aid. Given the lack of documented or formal land tenure agreements between IDPs and landowners, the length of the tenancy is often subject to a landowner finding a more profitable alternative business for his land.”*<sup>45</sup> Consequently, evictions have enabled the commodification of IDP settlements due to humanitarian assistance. The Protection Cluster advocacy brief on evictions in Somalia summarises: *“In the case of IDPs, evictions are often a form of manipulative pressure exerted by landowners or gatekeepers on households. Often, displaced people are evicted, to artificially trigger a response from humanitarian organisations for gatekeepers to obtain a percentage of aid given to communities such as cash, to enable the ongoing payment of rent.”*<sup>46</sup> This situation is embedded in the political economy that has emerged around IDP settlement management dynamics, and has rendered responses to evictions a complex moral dilemma.<sup>47</sup>

**DISTINGUISHING EVICTIONS: FORCED EVICTION VERSUS LAWFUL EVICTION**

It is necessary to differentiate between the categories of evictions in order to clarify the meaning of the term “forced evictions” and to distinguish it from “lawful evictions”.

**A lawful eviction is defined as:** a legal process initiated by a landlord or landowner through the formal judicial process to remove a tenant or land occupant from their current lodgings. Landowners can also be lawfully evicted if the government launches an official process to expropriate land for “public interest.” Without adequate representation, a lawful eviction can still be a forced eviction.

It is important to note that an eviction is a legal remedy often offered to a landlord with rights to any HLP asset or investment, when a tenant does not comply with the lease terms.

**A forced eviction is defined as:** the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land, which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.<sup>48</sup> In considering whether an eviction is lawful or not, certain aspects should be accorded particular attention:<sup>49</sup>

- **The way evictions are decided:** i.e. no consultation or participation, no information, no recourse mechanisms. Exclusion invariably reinforces existing social inequities by affecting marginalised or vulnerable groups including women, children and minorities.
- **The way evictions are planned:** i.e. no notification, no relocation available, compensation not provided, delayed or subject to unjustified conditions.
- **The way evictions are carried out:** i.e. at night or in bad weather, no protection for people or their belongings.
- **The use of harassment, threats, violence or force:** i.e. forcing people to sign agreements, use of bulldozers or other violent means.
- **The results of the eviction:** i.e. disruption of children’s education, interruption of medical treatment, mental trauma, loss of jobs and livelihoods, no access to basic services or justice. NRC’s ICLA programme in Baidoa has made notable strides in addressing this issue, working with the protection cluster and through the HLP Area of Responsibility to ensure that both state and non-state actors adhere to the Somalia National Eviction Guidelines, which has been adopted by the Federal Government but implemented selectively.



**Caption:** Male participant at the HLP forum in Baidoa.

### LAWFUL EVICTION PROCESSES IN SOMALIA

According to the Somalia National Eviction Guidelines, there are three exceptional circumstances where evictions may be carried out: (1) there is legitimate and compelling need to reclaim public land or buildings occupied by IDPs; (2) it is necessary to uphold and restore proprietary rights or lawful claims over land, to the legitimate owners; or (3) any overriding public interest.<sup>50</sup> In line with the Guidelines, steps that can be taken to ensure lawful eviction processes are carried out include:

- **Adequate notice provided:** ensuring that the affected population are accorded sufficient time to dismantle their dwelling structures, gather their belongings and relocate with all of their assets without destruction. This option is pursued in situations involving exceedingly limited notice period but without threat of violence or force.
- **Alternative accommodation facilitated:** steps are taken to ensure that people are not left homeless. The government, mainly through municipal authorities, and landowners are prevailed upon to identify alternative

solutions instead of leaving people homeless. Accommodation in this context refers to public buildings and other types of collective centres where structures already exist.

- **Access to land provided:** unlike 'alternative accommodation facilitated' which refers to public buildings, collective centres and other ready-made structures, this option applies in situations where land is provided by the evicting party or government authorities.
- **Eviction threat averted:** this option is prioritised when the affected population being threatened with force or violence, particularly where an eviction threat issued without notice is about to be carried out or is being executed. In such cases, concrete steps are taken to prevent the eviction.
- **Lease extension secured:** there are instances where landowners opt not to renew an existing agreement upon expiration. While there is no violence or threat involved in such scenarios, the ultimate result is still eviction and the consequences remain the same – disruption to life routine, displacement, etc.

### 3.4 THE POLITICAL ECONOMY OF IDP SETTLEMENT MANAGEMENT IN SOMALIA

The political economy underpins the phenomenon of forced evictions in Baidoa and Somalia at large. The varied practices in land acquisition, land use, and ownership have increased land speculations, consequently contributing to mass evictions of displaced people. Yet land ownership is often mobilised to retain political rights and citizenship, also intertwined with practices of sovereignty. As a result, forced evictions continue to constitute gross violations of a range of internationally recognised human rights, including the human rights to adequate housing, food, water, health, education, work, security of the person, freedom from cruel, inhuman and degrading treatment, and freedom of movement.

Gatekeepers, who constitute an informal governance structure, are described as a private business response that has emerged to fill the void of informal settlement management, including service and security provision, for displaced people in Somalia.<sup>51</sup> Otherwise referred to as "informal IDP settlement managers",<sup>52</sup> they are known to use displaced people to attract aid and to benefit from these inflows of people to IDP settlements by "taxing" the assistance they receive.<sup>53</sup> As such, gatekeepers play a brokering role:

“Gatekeepers act as middle-men between IDPs and NGOs. On the one hand, they offer the IDPs a plot of land in a settlement on which to live. In some cases, they would also provide basic services such as latrines and access to water trucks- in exchange for payment in either cash or kind. On the other hand, they regulate and restrict NGOs’ ability to provide humanitarian relief and the IDPs’ freedom of movement. They do this through exercising control over access to and from the settlements, often in concert with local militia, and in some cases also through exercising control over the IDPs’ food ration cards.”<sup>54</sup>

Gatekeepers identify their value-add in making deals with NGOs to bring services to the informal settlements that they manage.<sup>55</sup> Due to the influx of DACs in urban areas, there is insurmountable pressure on urban infrastructure and systems.<sup>56</sup> In turn, this creates a need and space for entrepreneurial brokers, who can provide access to services and protection to new arrivals in cities. One view<sup>57</sup> is that: “*due to the absence of functioning state institutions, non-state actors perform governance, development, social or humanitarian roles.*” Another perspective is that persistence of the gatekeeping phenomenon can be attributed to the complex political economy in Somalia.<sup>58</sup> Hence, the absence of an effective rule of law environment is identified as the main contributor to the rise of gatekeepers in the provision of land and services to displaced people. Within the IDP political economy, gatekeepers have become prominent, in part, due to the prevalence of cash assistance from humanitarian organisations.<sup>59</sup> The international community is conflicted about how to access and provide services to displaced people, given that reaching them requires going through the gatekeepers (brokers) who have become the go-between for IDP communities and outside actors. For displaced people, in many cases, gatekeepers are a more visible and accessible presence

on the ground than humanitarian actors or government authorities.<sup>60</sup> However, interaction with gatekeepers is controversial, as they both provide services and have the power to withhold these services and assistance to displaced communities. Given the prominence of gatekeepers in handling IDP settlement affairs in Somalia, there is some evidence emerging on the need to recognise these actors if there is to be an improvement in the protection and livelihoods of IDPs.<sup>61</sup> A 2017 study by Tana Copenhagen on the engagement of gatekeepers in Somalia, for example, explains that as gatekeepers remain one of the most resilient local-level governance structures in the country, formal stakeholders, including the government and the international community, need to engage with them proactively.<sup>62</sup> The pilot described within this study aimed to improve the accountability of gatekeepers through training and formal certification.<sup>63</sup> Results from this exercise indicated that working to create change with the entrenched yet informal and unrecognised gatekeeper system in Somalia is not only possible, but can also yield positive outcomes. However, such a novel approach should be informed by a thorough understanding of the specific political economy and reinforced by the full buy-in from local authorities.<sup>64</sup>

### 3.5 GENDERED IMPACTS OF FORCED EVICTIONS

Forced evictions disproportionately affect women in Somalia. Internally displaced women are particularly vulnerable to gender-specific violence as the protection afforded to them by their homes and communities disappears. Such abuses include physical and sexual attacks, rape, domestic violence, sexual harassment, increased spousal battering, and marital rape. Forced evictions are a traumatic experience for all who experience them, regardless of gender. Yet, Somali women often tend to withstand the worst of the abuse.

In addition, women face multiple layers of vulnerabilities at both household and settlement levels.<sup>65</sup> At the settlement level, forced evictions are often driven by local authorities, gatekeepers, or private landlords. By returning displaced women into a new cycle of displacement and disrupting their social networks and livelihoods, forced evictions remain an obstacle to the realisation of durable solutions. Likewise, displaced women experience significant barriers to access to justice due to the high costs of pursuing the formal legal process and gender discrimination during the use of customary or religious dispute resolution mechanisms (particularly if the male elders did not support their case). At the household level, Somali women face evictions because of disputes with their husbands, divorce, widowhood, and polygamous marriages. In turn, they are exposed to dangerous risks such as gender-based violence or fear of conflict that could trigger such abuse.<sup>66</sup> As women are excluded from both shaping the rules of the system as well as acting as decision-makers in the face of disputes, this leaves them with little recourse in the face of HLP violations.<sup>67</sup> Moreover, poverty reinforces women's precarious existence.<sup>68</sup> Even where there are no statutory or customary barriers permitting women to own land or housing, the lack of economic resources necessary to secure this access to land and property remains an impediment. In effect, resulting in informal tenure arrangements that expose them to eviction risks.

Women face multiple layers of vulnerabilities at both household and settlement levels. At the settlement level, forced evictions are often driven by local authorities, gatekeepers, or private landlords. At the household level, Somali women face evictions because of disputes with their husbands, divorce, widowhood, and polygamous marriages.



**Caption:** Scene of a group IDP women who have been forcefully evicted from their settlement in Baidoa.

### CASE STUDY I: DISCRIMINATION AGAINST WOMEN

Fatuma (not her real name), a 35-year-old widow and mother of three, resided in Idaale 1 IDP settlement in Baidoa. In August 2019, Fatuma contacted an ICLA paralegal during a community outreach session at the IDP settlement. She reported that upon her return from a four-month visit of her family in her place of origin, she was unable to access her Corrugated Galvanised Iron (CGI) sheet shelter. The settlement leader informed Fatuma that her shelter had been offered to another family due to her prolonged absence from the settlement. Following this, Fatuma demanded the return of her shelter and claimed that the current occupants were residing there unlawfully. Fatuma possessed a duly signed IDP occupancy certificate to prove she was a resident of Idaale 1 IDP Settlement and lived in the shelter indicated. She further argued that her children were also affected by the incident and lacked adequate housing. In addition, Fatuma lacked the finances to rent another premise in Baidoa town. The ICLA paralegal referred Fatuma to the ICLA desk at the NRC Baidoa office, where she was interviewed and counselled on available

options. During the interview, Fatuma narrated her side of the story and that she preferred if the traditional elders heard the case. The elders were part of the land dispute committee in Idaale 1 IDP Settlement. If the committee failed to resolve her dispute, Fatuma would then request NRC to intervene. Despite her decision to have the committee resolve the matter, Fatuma requested that NRC staff be present at the dispute resolution session to ensure a fair hearing. Fatuma had no relative in the settlement to provide her with the 'support' to avoid discrimination based on her gender. The NRC ICLA officer attended the dispute resolution session and observed the case. As Fatuma possessed an occupancy certificate, the dispute resolution committee decided in her favour and found that the settlement leader had violated her HLP rights. The dispute resolution committee at Idaale IDP settlement asked the new occupants to vacate the shelter and ensured that all three parties involved in the dispute signed a mediation agreement with the support of the NRC ICLA officer. Fatuma and her children were able to repossess their shelter and enjoy their HLP rights.

*“If NRC’s ICLA staff did not help me, I would be living on the street with my children begging for handouts and without a place to call home. I owe my gratitude to NRC and the land dispute resolution committee of Idaale 1 IDP settlement for helping me recover my shelter. In the future, I would like to stay here mainly because it provides us with access to education and better services. My village is still at risk of attacks from the militant groups and the situation remains unpredictable.”*

Fatuma, an IDP woman living in Baidoa.

### CASE STUDY II: DOMESTIC VIOLENCE AND FORCED EVICTIONS

In 2018, Halima (not her real name), a displaced woman living in Dalxiska IDP site in Kismayo reported a case involving eviction from her shelter to an ICLA officer. According to Halima, she was married during displacement and two years after the marriage, her husband Hussein started spending long hours outside home, chewing Khat with friends. This created tension and domestic violence started occurring frequently. Hussein would beat her up and send her out of the house. She recounted numerous occasions of how she would sleep outside and return in the morning. After several months, he forcefully evicted her and

their three children from the home. As a result, she suffered psychological stress and emotional trauma. Halima sought legal assistance from the legal aid centre at Dalxiska where she received counselling services. The ICLA officer then invited Hussein for a meeting where several attempts were made to mediate the case, but he turned violent, forcing the mediation to end prematurely. As a result, NRC provided Halima with shelter assistance and referred her to a Gender-Based Violence (GBV) partner. Halima also relocated to another settlement for her own safety.

### CASE STUDY III: SEXUAL VIOLENCE AND FORCED EVICTIONS

In 2017, a twin eviction, the worst single mass eviction incident, took place on 29 and 30 December in Mogadishu. The devastation that ensued immediately became of urgent concern to all stakeholders, particularly the humanitarian community. The incident was proportionally similar to a forced eviction that took place in Dharkenley District in March of 2015. Several quick fact-finding missions were carried out and protection flash alerts were circulated, providing initial cursory insights into the incidents. However, considering the fact that the forced evictions of displaced households evolved over a period of two days and spanned across several settlements in different geographic locations, a more detailed assessment was necessary. The main objective would be to understand the broader protection implications triggered by the occurrences as well as the scale, scope and extent of the impact of the evictions on the victims. NRC carried out a rapid post-eviction assessment in coordination with the HLP Area of Responsibility and the

Protection Cluster. Findings that emerged from this assessment found that the evictors used rape to break resistance. Verbal abuse, physical violence, rape and even aggravated assault were reported. The sexual violence coupled with the destruction of homes and property were some of the traumatic experiences recorded. The IDPs mentioned that they found the destruction of their homes equivalent to the destruction of their lives as everything they had acquired over several years in displacement was damaged. Women and girls faced difficulties coping with injuries, sexual violence, inadequate housing or even homelessness, poverty, and lack of community support, which was made worse by separation or relocation from the site. In addition, the limited access to mental and health services in the new site affected displaced women and girls who were already emotionally scarred. The impact of these forced evictions was profoundly devastating for women and girls and consequently heightened rates of both physical and psychological trauma.

#### CASE STUDY IV: FORCED EVICTIONS AND GIRLS' EDUCATION

In 2016, along kilometre ten, in Mogadishu, forced evictions were carried out during the academic year and they disrupted school attendance of many children. Particularly, the academic performance of girls was disproportionately affected. IDP families, who found alternative housing away from the schools, reported that

their boys were subject to recruitment by militant groups; and their girls encountered threats to their security while travelling long distances to and from the new school. This situation had profound consequences for girls who according to one of the parents, Mohamed (not his real name) had to pull his daughter out of school due to increased danger:

*“My daughter got constantly harassed by men and boys along the way. At school, there was limited access to toilets and as result forced some of the girls to go far away to relieve themselves in the open, further exposing them to more risks. I could not bear it anymore and was always anxious, so I decided to stop my daughter from going to school. I wanted her to be safe first. Even if her studies are important, I value her life and safety more.”*

Mohamed, IDP man living in Mogadishu.



**Caption:** A group of young female IDPs lined up in a queue in a school in Mogadishu.

## 4.

# LEGAL AND POLICY FRAMEWORK

### 4.1 INTERNATIONAL FRAMEWORKS

Housing, Land, and Property (HLP) rights are defined, recognised, and guaranteed by international, regional, and national legal frameworks. The acknowledgement of HLP rights, particularly, the right to housing and the right to property dates as far back as 1948, in the Universal Declaration of Human Rights – Articles 25(1) and 17, respectively.<sup>70</sup> Ever since, the set of rights collectively referred to as HLP rights; have been expressed and widely recognised in several international human rights covenants, conventions, treaties and protocols, declarations, and recommendations. National laws also play a vital role in the promotion and protection of HLP rights. They are the most relevant especially those that incorporate elements of international law and are accessible in a given country context. Somalia is a party to several international instruments that require the State to protect and promote HLP rights of DACs, and to penalise persons who use violence against them. These instruments have been described in detail in various other reports.<sup>71</sup> They include:

Somalia is a party to several international instruments that require the State to protect and promote HLP rights of DACs, and to penalise persons who use violence against them.

- Universal Declaration of Human Rights, Article 25(1), Article 17.
- International Covenant on Economic, Social and Cultural Rights (ICESCR): Article 11(1), General comments 4 and 7.
- International Covenant on Civil and Political Rights (ICCPR): Article 17.
- Convention on the Rights of the Child, Article 27(3).
- 1951 Convention relating to the Status of Refugees, Article 21, Article 13.
- Convention on the Ending of all Forms of Discrimination Against Women: Article 14(2)(h), Articles 15(2) and 16(1) (h).
- 1954 Convention relating to the Status of Stateless Persons, Article 21, Articles 8 and 13.
- International Convention on the Elimination of All Forms of Racial Discrimination, Article 5(e)(iii), Article 5(d)(v).
- Guiding Principles on Internal Displacement, Principle 18, Principle 21.
- Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles).

### THE RIGHT TO ADEQUATE HOUSING

The United Nations Committee on Economic, Social and Cultural Rights has underlined that the right to adequate housing should be seen as the right to live somewhere in security, peace and dignity. The characteristics of the right to adequate housing are clarified mainly in the Committee's general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions.<sup>72</sup> Adequate housing must provide more than four walls and a roof. A number of conditions must therefore be met before particular forms of shelter can be considered to constitute "adequate housing." These elements are just as fundamental as the basic supply and availability of housing. For housing to be adequate, it must, at a minimum, meet the following criteria: 1) legal security of tenure (which guarantees legal protection against forced eviction, harassment and other threats); 2) the availability of adequate services, especially water and sanitation; 3) affordability; 4) habitability; 5) accessibility; 6) a location that provides access to employment opportunities, education and health services and social facilities; and 7) cultural adequacy.<sup>73</sup>



**Caption:** Potrait of female IDP in settlement in Baidoa.

## 4.2 REGIONAL FRAMEWORKS

### AFRICAN UNION CONVENTION FOR THE PROTECTION AND ASSISTANCE OF INTERNALLY DISPLACED PERSONS IN AFRICA (THE KAMPALA CONVENTION)

The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention), adopted by African governments in 2009, entered into force on December 6, 2012.<sup>74</sup> It stresses that states bear the primary responsibility for protecting and assisting IDPs within their borders. The Kampala Convention is the world's first and only regional legally binding instrument for the protection and assistance of IDPs, who often struggle to access their rights and basic protection.<sup>75</sup> Reflecting the norms outlined in the 1998 UN Guiding Principles on Internal Displacement, the Kampala Convention aims at:

- Promoting and strengthening regional and national measures to prevent or mitigate, prohibit and eliminate root causes of internal displacement as well as provide for durable solution.
- Establishing a legal framework for preventing internal displacement, and protecting and assisting IDPs in Africa.
- Establishing a legal framework for solidarity, cooperation, promotion of durable solutions and mutual support between the States Parties in order to combat displacement and address its consequences.
- Providing for the obligations and responsibilities of States Parties, with respect to the prevention of internal displacement and protection of, and assistance, to IDPs.

- Providing for the respective obligations, responsibilities and roles of armed groups, non-state actors and other relevant actors, including civil society organisations, with respect to the prevention of internal displacement and protection of, and assistance to, IDPs.<sup>76</sup>

The Kampala Convention uses broader definitions of arbitrary displacement, and recognises that people may be displaced for reasons other than armed conflict. Article IV makes clear that the prohibited categories of arbitrary displacement also include “displacement as a result of harmful practices” and “displacement caused by ... violation of human rights.”<sup>77</sup> Somalia ratified the Kampala Convention internally in November 2013 but had not yet registered its ratification with the African Union.<sup>78</sup> Notably, on 26 November 2019, Somali President Farmaajo signed the Kampala Convention, after being passed with a near-unanimous vote by parliament.<sup>79</sup> Somalia is the 30<sup>th</sup> African Union Member State to ratify the convention since 2009. States that are parties to the Kampala Convention are required to adopt or amend legislation in line with its provisions.<sup>80</sup> Somalia is being hailed as a positive example for the promotion of the rights of IDPs and their inclusion in national and local development efforts.<sup>81</sup> In response to a request from the Federal Government of Somalia (FGS) in 2020, UNHCR contracted Professor Chaloka Beyani, the former UN Special Rapporteur on the Human Rights of IDPs and current member of the Expert Advisory Group of the UN High-Level Panel on Internal Displacement, to lead in the translation of the Kampala Convention into a national law (IDP Act)<sup>82</sup>. On February 25<sup>th</sup>, 2021, the IDP Act underwent legal review by the Ministry of Interior and Ministry of Justice and successively, the Federal Council of Ministers approved it. The legislation will be submitted to Parliament next as per the protocol. The National Commission for Refugees and IDPs (NCRI) is leading this process.

Somalia is the 30<sup>th</sup> African Union Member State to ratify the convention since 2009. States that are parties to the Kampala Convention are required to adopt or amend legislation in line with its provisions.



Caption: Woman carrying water at an IDP settlement in Somalia.

### 4.3 DOMESTIC STATUTORY LAW AND POLICIES

In Somalia, land governance is characterised by a situation of legal pluralism consisting of three systems of law: statutory (formal) laws, Islamic or Sharia laws, and the customary (xeer) law.<sup>83</sup> The set of laws regulating the administration and management of land in Somalia can be broadly categorised into three groups: pre-1969 era laws; those enacted between 1969 and 1991; and post-1991 era laws.<sup>84</sup> It remains unclear which group(s) of laws have been repealed, amended, and/or are still in force.

#### APPLICATION OF THE SOMALIA LAND LAW OF 1975 TO DATE

The introduction of a land law in 1975 by the Siad Barre government, aiming at abolishing customary land rights in rural areas to transfer these rights to the State, resulted in heightened tensions between clans and central authorities over control of land. According to the 1975 law, all land not held privately became property of the State. Registration of individual ownership over state land could then be granted in the form of a 50-year leasehold. The law resulted in appropriation of land by the political, social and economic elites. In practice, however, the uptake of registration was extremely limited, with only 0.05% of South-Central Somalia's land being registered by 1986 and 0.06% registered by 1988.<sup>85</sup> No recent data is available as most land registries documenting private ownership have been destroyed or contain missing data, including those from Mogadishu. It is difficult for anyone to prove regular ownership of land as there is no official registry to check it against. This has encouraged illegitimate and competing claims over land. Disputes are exacerbated by the limited capacity of courts to address such issues, and the confusion over the institutions in charge of land in the Somali government. The establishment of a Federal Government in 2012 offers new perspectives to clarify the legal framework on land and strengthen institutional capacity. In practice, since the 1975 land law is hardly implemented and enforced, the main forms of tenure in Somalia are leasehold ownership administered by statutory authorities and communal land agreements. The latter is used to secure land tenure, granted and managed by elders, customary and sharia authorities, but witnessed by local authorities (often municipalities). In case of disputes, people overwhelmingly approach the customary or sharia dispute resolution structures.

*Excerpt from NRC. (2016). Influencing durable solutions, advocacy package.*



**Caption:** Portrait of older female IDP.

The following section assesses the most relevant legal and policy frameworks at both the national and state levels that apply to the protection of general HLP rights for DACs, but with a thematic emphasis on evictions.

## THE 2012 PROVISIONAL CONSTITUTION OF THE FEDERAL REPUBLIC OF SOMALIA

The 2012 Provisional Constitution for the Federal Republic of Somalia<sup>86</sup> lays the foundation upon which displaced people's human rights are protected. It also provides the foundation for reform of the legal framework for land governance in Somalia. Excerpts of relevant articles from the Provisional Constitution concerning the protection of HLP rights of DACs include:

### Article 10: Human Dignity

- Human dignity is given by God to every human being, and this is the basis for all human rights.
- (2) Human dignity is inviolable and must be protected by all.
- (3) State power must not be exercised in a manner that violates human dignity.

### Article 26: Property

- (1) Every person has the right to own, use, enjoy, sell, and transfer property. The state may compulsorily acquire property only if doing so is in the public interest.
- (2) Any person whose property has been acquired in the name of the public interest has the right to just compensation from the State as agreed by the parties or decided by a court.

### Article 33: Just Administrative Decisions

- Every person has the right to administrative decisions that are lawful, reasonable and conducted in a procedurally fair manner.

### Article 39: Redress of Violations of Human Rights

- (1) The law shall provide for adequate procedures for redress of violations of human rights.
- (2) Redress of violations of human rights must be available in courts that the people can readily access.
- (3) A person or organisation may go to court to protect the rights of others who are unable to do so for themselves.

### Article 43: Land

- Article 43(3) mandates the FGS to develop a national land policy that would ensure: equity in land allocation and the use of its resources; the guarantee of land ownership and registration; any land and property dispute is resolved promptly and satisfactorily for all; the land and property market is regulated in a manner that prevents violations of the rights of small landowners; and, that the Federal Member States can formulate their own land policies.

Despite the fact that land is formally referred to in Article 43 of the 2012 Provisional Constitution, critical issues of land governance, land allocation and property dispute resolution still remain vaguely articulated. Additionally, the lack of robust legal and policy framework along with the multiplicity of alternative avenues of recourse have complicated land transactions in Somalia.



Caption: Displacement affected communities participate in a HLP forum in Baidoa.

## NATIONAL EVICTION GUIDELINES

In November 2019, the Council of Ministers of the Federal Government of Somalia (FGS) endorsed the National Eviction Guidelines.<sup>87</sup> The guidelines lay out the conditions, safeguards, and process for legal evictions, all in line with international standards. The National Eviction Guidelines aim to:

- Make provision for the responsibility of the FGS to refrain from, and protect against, arbitrary and forced eviction of occupiers of public and private properties, from homes, encampments and lands, to protect the human right to adequate housing and other related human rights.
- Address the human rights implications of evictions in urban and rural areas.
- Provide guidance on measures and procedures to be adopted and observed to ensure that forced evictions are not undertaken in contravention of existing international human rights standards, the Provisional Constitution of the FGS and other written laws.
- Provide a practical tool for the development of policies, legislation, administrative procedures and preventive measures to ensure that forced evictions do not take place, and to provide effective remedies to those whose human rights are violated in consequence of failure on the part of the State to provide protection.<sup>88</sup>

The National Eviction Guidelines, however, are not binding and do not alter the status quo. Concrete steps need to be made to ensure the conversion of the Guidelines into a robust legal instrument (Eviction decree or law).

### **RECOGNITION OF INTERNATIONAL INSTRUMENTS WITHIN THE NATIONAL EVICTION GUIDELINES**

The National Eviction Guidelines recognises that the practice of forced evictions constitutes a gross violation of human rights, and directly or indirectly contravenes the following international instruments ratified by the Federal Republic of Somalia:

- a) The right of everyone to adequate housing as guaranteed by Article 25 of the Universal Declaration of Human Rights.
- b) The right to life and the right to security of the person as guaranteed by Articles 6(1) and 9(1) of the International Covenant on Civil and Political Rights.
- c) The right to an adequate standard of living, including the right to adequate housing, food, water and sanitation as guaranteed by Article 11 of the International Covenant on Economic, Social and Cultural Rights, and the related resolutions of the Human Rights Council.
- d) The right to an effective remedy as guaranteed by Articles 2, 3 and 26 of the International Covenant on Civil and Political Rights.
- e) Principle 6 of the Guiding Principles on Internal Displacement, which prohibits arbitrary displacement of internally displaced persons from their homes or places of habitual residence.
- f) Article 11(4) of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), regarding the obligation of state parties to establish appropriate mechanisms providing for simplified procedures where necessary for resolving disputes relating to the property of internally displaced persons.
- g) Article 27(3) of the Convention on the Rights of the Child, which mandates State Parties, in accordance with national conditions and within their means, to (i) take appropriate measures to assist parents and other persons responsible for the child; (ii) implement this right; and (iii) in situations of need, provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
- h) The UN Committee on Economic, Social and Cultural Rights has interpreted the content of the right to adequate housing (Article 11.1) in its general comments 4 and 7.

### **NATIONAL POLICY ON REFUGEE-RETURNEES AND INTERNALLY DISPLACED PERSONS (NPRRI)**

In November 2019, the Federal Government of Somalia adopted a new National Policy on Refugee-Returnees and IDPs (NPRRI). The main objective of the NPRRI is to ensure that all refugee-returnees and IDPs enjoy full equality and obtain the same rights as those given to all citizens by the Somali National Constitution and all other laws of Somalia, as well as international humanitarian and human rights laws.<sup>89</sup> In particular, the policy aims to protect refugee-returnees and IDPs from further forced displacement, provide protection and assistance during displacement, and find durable solutions to their displacement. Importantly, the NPRRI promotes the government's responsibility for facilitating durable solutions for refugee-returnees and IDPs and emphasises the need to prevent forced evictions. It also codifies the roles and responsibilities between the Federal Government and the Federal Member States. The NPRRI recognises all causes of internal displacement in Somalia, including armed conflict, insecurity and clan-based violence, and the impact of natural disasters and climate change, development projects and unlawful evictions.

### INTERIM PROTOCOL ON LAND DISTRIBUTION FOR HOUSING TO ELIGIBLE REFUGEE-RETURNEES AND IDPS

The FGS adopted the Interim Protocol on Land Distribution for Housing to Eligible Refugee-Returnees and IDPs on November 14, 2019. The provisions outlined in the Interim Protocol aim to: establish the eligibility criteria for land distribution, availability of land for distribution, priority in land allocation, determination of beneficiaries, and the obligations of beneficiaries and land ownership.<sup>90</sup> Additionally, the protocol reaffirms the obligations set forth by Article 43 of the 2012 Provisional Constitution. The Interim Protocol aims to secure access to tenure security and address the housing needs of refugee-returnees and IDPs, which in turn creates clear pathways to seek durable solutions for these vulnerable populations.

### SOUTH WEST STATE (SWS) URBAN LAND BILL

At the state level, the South West State (SWS) has been undertaking a series of steps towards strengthening the rule of law and increasing access to justice. Most remarkably, in 2019, the SWS cabinet enacted an Urban Land Bill. The bill, which has not yet been assented to, is currently awaiting approval by the SWS assembly. The objective of the law once passed is to regulate urban land in SWS efficiently and equitably.<sup>91</sup> It will protect the rights of individuals, groups, corporations and communities to lawfully enjoy, use, access and own land. This law will also grant the State and Local Government the authority to exercise powers and responsibilities to manage urban land, specifically to: The Interim Protocol aims to secure access to tenure security and address the housing needs of refugee-returnees and IDPs, which in turn creates clear pathways to seek durable solutions for these vulnerable populations.

- Facilitate efficient and orderly urban land administration.
- Improve integrated urban planning, promote sustainable land use and protect individual land rights.
- Regulate land rights and protect tenure security and manage land related transactions.
- Manage and regulate public property and spaces and prevent misuse.
- Harmonise institutional mandates and powers and reduce abuse of power in relations to urban land.
- Simplify land administration procedures, codify applicable practices, coordinate institutional cooperation and maintain accurate land rights records.
- Prevent and manage land conflicts through the establishment of formal land dispute resolution mechanisms and promote harmonisation with informal or customary methods of dispute resolution.
- Manage proper spaces for internally displaced people and regulate evictions.
- Increase public trust in land governance and discourage land grabbing.



**Caption:** Female IDP outside her shelter in settlement in Baidoa.

With regard to institutional mandates and frameworks, the Urban Land Law will:

- Establish a state urban land and planning committee chaired by the Minister of Public Works (MoPW), in charge of establishing urban land planning policies, planning standards, and giving guidance and recommendations on issues of urban planning, while overseeing implementation.
- Give responsibility to Local Governments, in this case, Baidoa District Administration, to develop urban plans. Subsequently, once these are approved by the State Committee, to allocate and distribute related lands, as well as register private land ownership, issuing building permits as per state building standards.
- Establish an Urban Land and Planning Office under MoPW as technical support to formulate city, town, and district plans, regional state urban guidelines and frameworks, as well as in charge of monitoring adherence.
- Place land registration within the state land registry under the MoPW.
- Require urban development to be participatory and inclusive, specifying that affected communities need to be meaningfully involved, and town plan must be publicised before and after approval.

Importantly, Chapter 8 of the SWS Urban Land Bill focuses on evictions and land dispute management. Article 60 describes the definition of an illegal eviction; Article 61 details the protection of IDPs and needy people; Article 62 outlines the procedures for lawful evictions; and Articles 63 and 64 focus on land dispute resolution, and mediation and adjudication of the Tribunal respectively. The Tribunal referred here is an administrative body that resolves land disputes in the district. The Tribunal comprises an independent expert suggested by the Ministry of Public Works who will act as the Chairman; a reputable elder suggested by the Non-State Actors; representatives from the Local Government; Ministry of Interior Affairs; Ministry of Agriculture; Ministry of Religious Affairs; and Ministry of Justice. Any party who is not satisfied with the decision of the Tribunal has the right to appeal to the Regional Court of Appeal within one month from when the decision is made (see annex 2 for Chapter 8 of the Urban Land Bill).

However, before the Urban Land Bill is passed, there is a need for harmonisation with the National Eviction Guidelines. Particularly, adequate notice within the bill is described as a period of 30 days, taking into considerations various extenuating circumstances. Within the National Eviction Guidelines, adequate notice is for a period of 60 days. Furthermore, once the Urban Land Bill assents into law, concrete steps should be taken to develop a timely, costed and realistic roadmap for its implementation and subsequent monitoring. This in turn creates space for resource mobilisation, prioritisation and sequencing of investments.

Chapter 8 of the SWS Urban Land Bill focuses on evictions and land dispute management. Article 60 describes the definition of an illegal eviction; Article 61 details the protection of IDPs and needy people; Article 62 outlines the procedures for lawful evictions; and Articles 63 and 64 focus on land dispute resolution, and mediation and adjudication of the Tribunal respectively.

#### 4.4 ISLAMIC/ SHARIA LAW

Islamic teachings are one of the most respected sources of rights and truth by Muslim men and women alike.<sup>92</sup> Article 2 of the 2012 Provisional Constitution of Somalia states: “No law which is not compliant with the general principles and objectives of Sharia can be enacted.”<sup>93</sup> HLP rights are an integral aspect of Islamic or Sharia law. Sharia law contains a large body of jurisprudence dealing with the process of deliberating upon land and property related cases. Key Islamic principles such as *mewat* (dead or unused land) and *waaf* (charitable land) have been identified as potential avenues through which Sharia law help IDPs secure permanent land.<sup>94</sup> Land cases can be brought before Sharia courts who will hear ownership disputes over built plots where the person who has developed the land is deemed the owner.<sup>95</sup> The hearings are conducted in the same way as those of the customary courts, but the judgements are rooted in Islamic doctrine and jurisprudence – albeit with some flexibility for local customs and a high degree of judicial interpretation. Moreover, there is the explicit recognition in the Qur’an of women’s rights to property acquired through purchase, inheritance, *mahr* (property transferred to the wife from the husband as security for marriage), and other transactions.<sup>96</sup> Although Sharia law ascribes certain rights and duties according to gender, the Sharia courts are male dominated and women are at a distinct disadvantage. Conservative customs, local social norms and misinterpretation of Sharia law can therefore lead to women being viewed as the “possession” of their husbands or fathers, which may limit their ability to access fair treatment through the Sharia system.<sup>97</sup> Besides the formal hearings in Sharia Courts, the religious authorities can also engage in mediated dispute resolution in a process known as *tahkim* or arbitration.<sup>98</sup> Further research is required to ascertain the extent and scope of this practice in Baidoa.

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#### 4.5 CUSTOMARY LAW (XEER)

Xeer is the set of rules and obligations developed between traditional elders to mediate conflicts and maintain peaceful relationships amongst Somalia’s clans.<sup>99</sup> The collective nature of xeer inextricably ties it to the clan. The actions of the individual reflect on the group, and the group on behalf of the individual generally makes compensation. Xeer is commonly believed to pre-date the advent of Islam and resulting introduction of Sharia.<sup>100</sup> Historically, xeer has held greater influence in rural than in urban areas of Somalia. Before the state collapse in the 1990s, the influence of xeer in urban centres had slowly declined throughout the twentieth century, as governments at the time attempted to consolidate formal justice mechanisms.<sup>101</sup> Law 67 of November 1970, banned ‘tribalism’ and with it ‘key elements of xeer’.<sup>102</sup> When the Somali state collapsed, however, there was a reliance on traditional justice mechanisms, even in urban centres, in the absence of a judiciary and state security agencies.<sup>103</sup> There are three primary processes of xeer namely, negotiation, mediation and arbitration. While negotiation commonly serves as a starting point, mediation is most suitable in a situation where the parties’ responsibilities are clear but misunderstanding is rife and communication has broken



Caption: Community consultations facilitated by NRC take place in an IDP settlement in Baidoa.

down or is non-existent.<sup>104</sup> It is generally aimed at easing tension and inducing the parties to agree to face-to-face negotiation.’ In arbitration, the opposing parties present their cases to a neutral third party. Unlike mediators, arbitrators have the power to propose solutions after hearing proofs and arguments from each party. Under arbitration, each party can choose its own arbitrating panel members, but the parties will have to commit to comply with the panel’s recommendations, which can be binding and enforceable.<sup>105</sup>

There are several limitations to the use of customary dispute resolution mechanisms. The clan composition of the court lends an inherent bias in cases where an unrepresented or minority clan member is in dispute with another member of a majority or powerful clan.<sup>106</sup> This presents a serious disadvantage for the minority disputant. This means that those displaced in an area where their clan is not dominant have less chances of having their rights being protected.<sup>107</sup> The traditional courts are also comprised exclusively of male elders. Women are allowed to bring cases to the court but have to do so through a male interlocutor. Women may therefore be disadvantaged in cases involving the division of property through inheritance, divorce and re-marriage. Further to the limitations aforementioned, Xeer has not continued to develop as quickly as Somali society has changed.<sup>108</sup> In urban contexts for example, xeer is especially weak as it is not well adapted to the urban social structure rendering it unable to solve urban types of disputes. Similarly, elders often lack the resources and power to resolve urban land disputes.

5.

## BAIDOA: A RAPIDLY GROWING CITY

Baidoa, locally known as Baydhabo, is a strategic town in south-central Somalia and the interim capital of the South West State of Somalia.<sup>109</sup> Baidoa is situated approximately 240 kilometres West of Mogadishu and Southeast of the Ethiopian border, on one of the main Somalia trade corridors, connecting the seaport of Mogadishu and the productive region of the Lower Shabelle with Ethiopia and Kenya.<sup>110</sup> Since 2004, Baidoa has undergone massive spatial expansion,<sup>111</sup> trebling in size between 2004 and 2019. This increase in spatial size corresponds with rural–urban migration into Baidoa because of successive displacement events. Since 2011 in particular, the impact of drought, flooding and insecurity has led to the massive displacement of people fleeing crises from rural areas to the city of Baidoa. Liberated from Al Shabaab in 2012, Baidoa is comparatively stable. As with many urban areas in Somalia, however, the city is surrounded by a rural countryside that is still influenced by the group.<sup>112</sup> Al Shabab imposes various forms of taxation on populations in the rural areas they control,<sup>113</sup> which creates a push factor from rural areas into Baidoa.

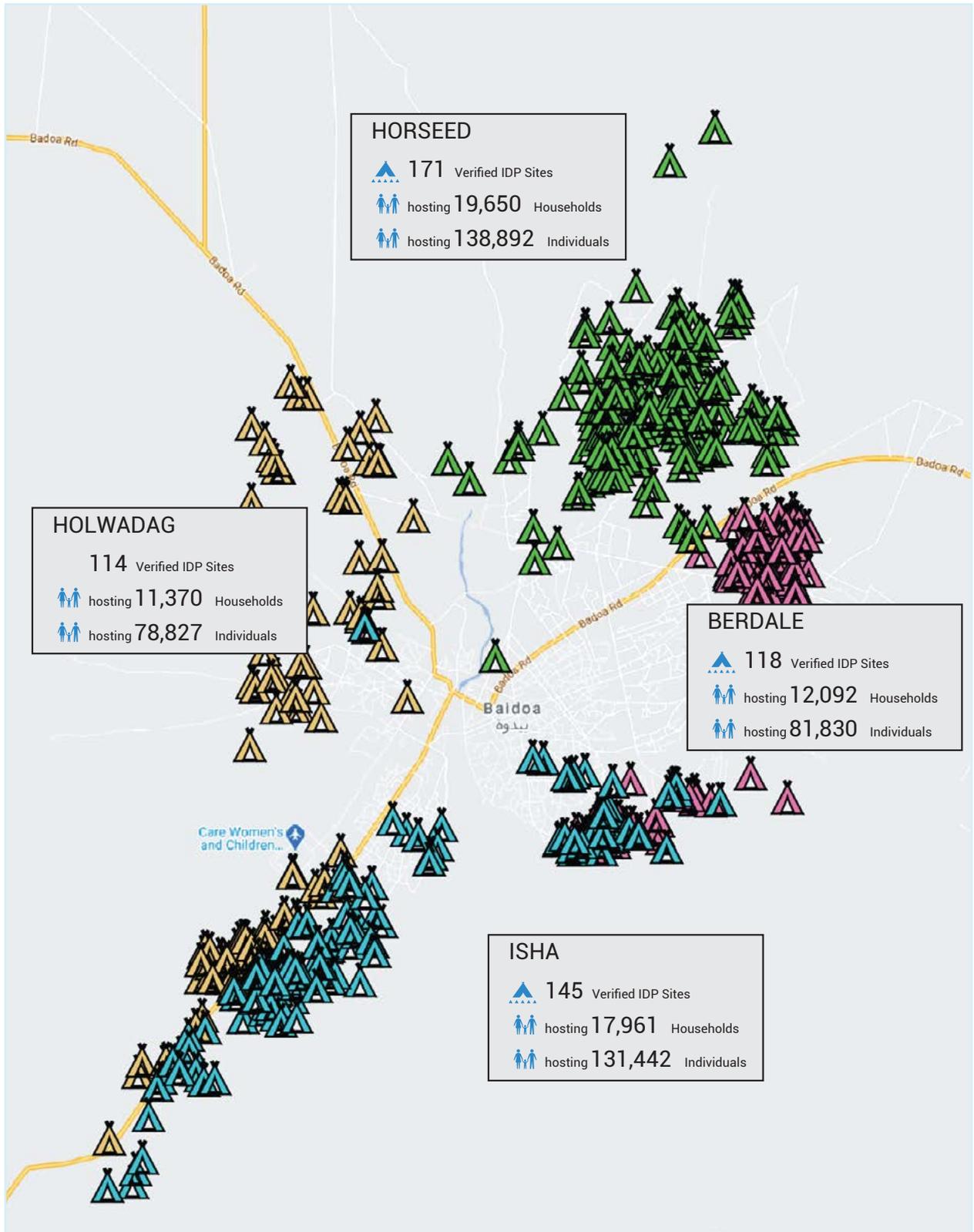
Since 2004, Baidoa has undergone massive spatial expansion, trebling in size between 2004 and 2019. This increase in spatial size corresponds with rural–urban migration into Baidoa because of successive displacement events.

Rural displacement, migration into Baidoa, and urban expansion continue unabated. With the huge influx of IDPs and returnees, displacement has been one of the main drivers of the urban expansion that has occurred in the last few years. In 2019, Baidoa hosted an estimated 360,000 displaced people hosted in 435 sites.<sup>114</sup> In 2021, the total number of displaced people has increased to 430,991 individuals hosted in 548 IDP sites.<sup>115</sup> Approximately one fourth of the IDP settlements in Somalia are situated in and around Baidoa, mostly in peri-urban areas on the outskirts of the city. Urbanisation in Baidoa is largely due to successive displacement processes leading to an increase of displaced people in Baidoa. One respondent explains:

“Baidoa is a big town and is hosting more displaced populations than the host communities. We have close to half a million IDPs in Baidoa, which is a very huge number in comparison to the capacity of the district.”<sup>116</sup>

There are complex linkages between rapid urbanisation processes, land market forces, commodification of the IDP sector and forced evictions in Baidoa. These intersect with a variety of potentially overlapping incentives and benefit streams that make it desirable for landowners to attract displaced people to reside on their lands.

Figure 2: Verified IDP sites in Baidoa



Source: Somalia CCCM Cluster, April 2021.

## 5.1 SETTLEMENT TRENDS AND DYNAMICS IN BAIDOA

### Clan composition and Settlement trends

The major clans that live in Baidoa are the Digil and Mirifle clans. The more dominant clan Mirifle is divided into sub-sections referred to as the Sagaal (meaning nine) dominant in the west and southwest of Baidoa and Sideed (meaning eight) dominant in the east and northeast of Baidoa. In Baidoa, IDP communities settle in the way they are displaced into the town and they form their settlements as per their composition in rural villages (with a majority of IDPs using the same name that they used in the rural villages for their settlements). IDPs in Baidoa tend to settle along their clan identities and social ties with the host communities. They directly associate their residence with their social networks, which enables access land, assistance, safety, sense of belonging, and protection. Those that belong to minority clans are highly vulnerable due to their lack of connectedness to host communities and little social cohesion. As one key informant to this study explains:

The major clans that live in Baidoa are the Digil and Mirifle clans. The more dominant clan Mirifle is divided into sub-sections referred to as the Sagaal (meaning nine) dominant in the west and southwest of Baidoa and Sideed (meaning eight) dominant in the east and northeast of Baidoa.

*“ In Baidoa, the IDPs tend to settle along their clan identities, which allows IDP chairpersons to act as gatekeepers. When IDPs move to Baidoa, we understand that it is well coordinated. They [displaced people] call their relatives in Baidoa town. The city is spatially segregated and they tend to move into the areas where their clans dominate, due to protection and social networks. They would only settle in areas of their clan or sub-clan. <sup>117</sup> ”*

Likewise, the clan configuration in Baidoa is so significant that it can also influence major DAC resettlement initiatives. A majority of IDPs from the Sagal sub-clans for example, declined to relocate to the Barwaaqo site in eastern Baidoa. Consequently, in 2018, a plot of land in the ADC zone that was same size as Barwaaqo was earmarked for the resettlement of IDPs from these sub-clans due to their preference to move to that side of town instead. However, there has been no documentation or public allotment of the land by local authorities yet. At the time of writing this report, discussions with local authorities on the allotment letter for the ADC zone land were ongoing.

### Gatekeepers

In Baidoa, gatekeepers play an influential role in coordinating settlement arrangements between displaced people and landowners. They also are key to attracting humanitarian assistance to IDP settlements. Gatekeepers are the fulcrum around which IDP settlement business activity revolves, beginning from the point of arrival to attracting services and assistance to specific locations.

*“A lot of the gatekeeping happens because the government is absent, and [the gatekeeper] gives land to the people and protects the people.”<sup>118</sup>*

The presence and access of humanitarian agencies are also limited. The gatekeeper plays the role of a broker, assisting newly arrived displaced people and the settlements they form to become visible as a destination for the humanitarian aid that flows to IDP camps. These recently established settlements are named, and the gatekeepers register IDPs as inhabitants of these locations. The list of registered households at a specific IDP settlement becomes the basis for a request for assistance from government authorities or humanitarian organisations by gatekeepers.<sup>119</sup>

There are multiple dynamics surrounding gatekeepers in Baidoa. Gatekeepers, for instance, can themselves be displaced people or be hired from host communities by the landowner, either as appointed caretakers of land or as tenants who then sublet to other displaced people or host community members as a business arrangement. In Baidoa, the IDP chairperson, who may double as a gatekeeper, plays a critical role in striking the deal with landowners to establish the IDP settlement. The gatekeeper and the landowner may have an informal agreement about how to share the aid they receive from humanitarian agencies and how that aid is provided to the community.<sup>120</sup> In comparison to Mogadishu, key informants for this study indicate that the gatekeeping context in Baidoa is likely to be less exploitative:

*“In our context in Baidoa, we do not actually call them ‘gatekeepers’. We call them ‘camp leaders’ or ‘chairman’ or ‘chairwoman’. However, in a context like Mogadishu, we call them ‘gatekeepers’. The Mogadishu gatekeepers come only from the host communities because the origins of IDPs are heterogeneous. Whereas in Baidoa, the host community can be a settlement leader or the owner of the land, who then claims to be the person in charge of that community.”<sup>121</sup>*

The relationships between landowners and gatekeepers are variable and complex, highlighted below:

*“ There is the landowner, and then there is the gatekeeper. The gatekeeper mostly represents the landowner in IDP matters. He is the one who also organises the IDPs to settle in these kinds of settlements. When it comes to disputes and there are forced evictions, different landowners can emerge. The landowner owns the land with another person, not necessarily the gatekeeper. Two or three persons for example, can own the same plots of land. IDPs know only one person in most cases. When you go deep to investigate, it is these kinds of issues and dynamics that come up. <sup>122</sup> ”*

Another interview respondent elaborates:

*“ The relationship [between the gatekeeper and the landowner] is on one hand clear, and on the other hand, not very clear. The landowner may give responsibility to the gatekeeper without ever going to the land where the people are residing. The landowner is not in Baidoa, so I [gatekeeper] am the one responsible for the land. He may tell them you are in an agreement. In some cases, the landowner may not get any income from the community residing there. However, the gatekeeper searches for income by regularly taking a portion of the humanitarian aid. Maybe he [the landowner] is rich and has given the land for charity, or a relative of the gatekeeper that does not want to get involved in minor issues. Sometimes, we have also seen cases where the gatekeeper is the owner of land. The land belongs to him... It is also important to remember there is a certain kind of arrangement that can exist between the community and the gatekeeper when it comes to sharing humanitarian aid. However, the IDPs will not clearly tell you that ‘we pay a portion of our aid to the gatekeeper. <sup>123</sup> ”*

Likewise, gatekeepers can be one of a limited number of individuals privy to the actual arrangements and circumstances around the land tenure situation at the IDP settlement. In many situations, they are the custodians of the documentation or written agreement that formalises these arrangements, if they exist.<sup>124</sup> It is often the case that displaced residents do not know the full terms of the agreements that were made to allow them to reside on private lands.<sup>125</sup>

### Landowner motivations

In a situation involving potentially hundreds of landowners, the range of motivations for allowing displaced people to settle on their land can vary significantly. These motivations reportedly range from entirely charitable to opportunistic and potentially exploitative or profiteering reasons. Thus, a tendency to over generalise that landowners are all charitable or entirely opportunistic and predatory should be avoided. It is likely that personal circumstances, perspectives on property rights and social relationships to IDP settlement residents all significantly influence landowner decisions about how and why they permit displaced people to reside on their land. These factors are dynamic and can change over time, depending on context; for example, when land values increase exponentially or when displacement becomes protracted. Personal emergencies may also arise that require distress sales for conversion of land into cash on short notice.

This study finds that there are several ways, in which landowners potentially benefit from hosting displaced people on their land. As with landowner motivations, these benefits can also be overlapping. The prospective range of benefits linked to allowing displaced people to settle on private land is summarised below:

*“ Some of them are providing land out of religious donations. Some people are displaced, and God has given them some land and wealth. They are obliged to provide land to these people. The others, I would say, want to provide land to IDPs who are from their clans and have been displaced due to drought, flooding or conflict. They want to provide their land to their relatives or community members. The other reason I noticed is that land appreciates when it is settled. It turns into a marketplace and changes into being habitable. It is also protected from land grabs. These are the common reasons that they [landowners] provide land <sup>127</sup> ”*

These benefits can be categorised in terms of religious and clan-based, financial, and protection of property rights. Often inter-locking, these motivations are key for landowners to host displaced people on their land.

#### a. Religious and clan-based dynamics

In some cases, landowners may not receive any direct financial benefit from hosting displaced people on their land.<sup>128</sup> Rather, they allow them to settle on their land out of generosity or for charitable purposes related to clan and religious reasons. Such arrangements are referred to as “goodwill agreements”. In part, those who temporarily donate their land often do so because the displaced people who require a place to settle are from their own clan, sub-clan, lineage or place of origin in rural areas. Goodwill arrangements are a form of social capital whereby a well-off member of the wider community supports

other members who require assistance. They also represent an act of charitable almsgiving, which is a significant tenant of Islam. As one interview respondent notes:

*“ We hear rumours that some landowners require some money. We do not have this kind of evidence. When we follow up with IDPs, they say it is charity and they received the land due to their vulnerability. In some cases, others report that there is some type of relationship between the IDPs and the landowner. ”*<sup>129</sup>

#### b. Financial dynamics

Over time, the IDP sector has grown into a significant market share of the economic activity in Baidoa. The vast number of displaced people and their percentage of the overall population in Baidoa illustrates this. The presence of displaced people and their need for a place to live has become the basis of a large economy. The majority of displaced people have settled on private land leading to the commodification of IDP settlements.<sup>130</sup> Key informants to this study offer anecdotal stories about how gatekeepers, landowners and IDP settlement leaders manage to create financial advantage from issues around land, IDP settlements and humanitarian assistance. IDPs may not initially pay a rental fee, although they may pay a portion of their humanitarian assistance to the settlement leader or gatekeeper to remain in their settlements:

*“ You will find that when they [displaced people] arrive, they do not pay much. However, the way they end up paying to settle on the land is through the humanitarian aid. Let us say [name of humanitarian organisation] or a service partner give out vouchers to the IDPs. The IDP settlement leader, who is linked to the landowner, finds a way to get 30 vouchers. Others pay upfront. There is no free land. Everyone is paying for it, either directly or indirectly. ”*<sup>131</sup>

This study found that the arrangements around fees or goods in exchange for a place to live or the services provided to the settlement are vague and largely undocumented. Official government sources are reluctant to acknowledge displaced people pay rent. They are also reticent about discussing the nature of financial payments or goods and in-kind exchanges for land or services within the rubric of “rental” terminology. In addition, the amount of rent paid by displaced people to landowners or gatekeepers is not well known by humanitarian organisations or donors. Interview respondents as well offered competing views on this issue. Though widely claimed by displaced people, gatekeepers, and landowners that displaced people do not pay rent or fees to settle on private land in Baidoa, some

key informants did indicate that payments by displaced people to live in IDP settlements are common. There is some evidence<sup>132</sup> suggesting that some displaced people do pay part of their humanitarian aid—food aid, shelter materials or cash assistance—for the right to reside where they live or to access services within the settlement. These arrangements are often kept clandestine.<sup>133</sup> The exchange of a fee to reside on land is also not an aspect that is customarily incorporated into written occupancy agreements between parties. Likewise, those accepting such fees do not tend to record them. The motivations behind this appear to range from not wishing to be seen to be taking advantage of displaced people to concerns about garnering attention from the authorities. One key informant who works on HLP issues at a humanitarian aid agency highlights:

*“When eviction prevention efforts are underway, displaced people do divulge the actual terms of their tenancy agreements with gatekeepers or landowners. In many eviction cases, it transpires that displaced people had been paying a portion of their humanitarian support to settle on the land.”*<sup>134</sup>

Such illegal land transactions where IDPs rent land informally can lead to forced evictions. Another respondent adds:

*“The landowners themselves report that they are not taking money from the IDPs. In some cases, they are afraid of the repercussions. When the information comes out, the landowner may try to evict them. The landowners report to the government. There is a moratorium in place. The Southwest State Commissioner ordered the landowners not to evict IDPs during the COVID-19 period. The DC [District Commissioner] and the Municipality engage the landowners, and in most cases, they receive information that the IDPs do not pay rent. To keep it secret the landowner can tell the IDPs not to report it. Rumours are not evidence. When you go to them [the IDPs], they say we are not paying any money and the person providing the land is just a well-wisher. More needs to be done to identify this.”*<sup>135</sup>

### c. Property rights dynamics

Securing property rights is another motivating factor for landowners to allow displaced people to settle on their land. Commenting briefly on this benefit, one interview respondent states: *“It is like having a fence.”*<sup>136</sup> When displaced people reside on a piece of land, this can serve as a means for landowners to protect their land from ownership challenges, encroachment, land grabbing by other claimants, or land disputes.<sup>137</sup> They also serve a boundary marking purpose to the land upon which they reside. Majority of the key informants for this study agree that these are common dynamics of claiming property rights

in Baidoa.<sup>138</sup> One interview respondent explains the role of displaced people in protecting property rights this way:

*“ They are like stock-keepers. They are securing the land. If there is a sign, and the IDP communities are there, no one can start challenging the owner. To avoid challenges, they [landowners] bring the displaced here to protect the land... To ensure that your land remains secure, one must get some IDPs to live on the land. ”*<sup>139</sup>

Allowing people who are displaced to reside on privately owned land creates both visible and practical use of the land, which is a significant public statement about the ownership and use of the land.<sup>140</sup> A large group of displaced persons potentially sharing a place of origin, social identity, and possessing allegiance to the landowner due to the charitable provision of a place to live, establishes physical occupation of the land:

*“ There have been instances where people are claiming other people’s land. People say, ‘When a land is open, there is no fencing, there is no one on the land, anyone can claim it.’ It is out of fear... They fear that someone can claim if it is open and no one is on the land. ”*<sup>139</sup>

Furthermore, hosting IDPs on land is a way to establish and maintain boundaries. The presence of displaced people aims to create boundary markers with neighbouring plots to avoid encroachment and the protection for property rights.<sup>142</sup> The occupation of IDPs, for example, ensures that other claimants are not coming to show and sell land to potential buyers, or trying to develop the land. When asked if this was one of the significant reasons displaced people are hosted on land, one respondent replies:

*“ IDPs residing on the land could show that the boundary exists. Nobody can come and move them until the owner does. They already have an agreement with the owner. If someone comes, they can call the owner and say: ‘There is a new person coming to your land, so call them.’ The owner can come and secure the land. ”*<sup>143</sup>

Another interviewee elaborates:

*“Someone can give the land to the displaced. They may have two issues in mind. Maybe the community, when the land is outside, and located on the farthest part of the town, just to make sure that someone else does not occupy the land. Landowners use them as guards, to settle that place, to safeguard the land. They will tell other people this land belongs to so and so, who lets them reside for that particular time. But when the issue of money comes in, things change.”* <sup>144</sup>

A government source interviewed for this study was emphatic that displaced people do not pay rent but acknowledges that when they occupy land, they provide a measure of protection for landowners to defend their property rights:

*“We are not aware of IDPs renting camps and giving money for this. The landowner has one benefit- the IDPs will protect the land. They are security guards who provide security for the landowners. When there is a community living on land, there is security. The community is protecting the land.”* <sup>145</sup>

Moreover, landowner motivations can be influenced by the potential increase in the value of the land due to increasing urbanisation and humanitarian agency investment. Areas once located on the outskirts of town can become part of the main town itself within a few years. Often, landowners would be more inclined to provide unutilised land for IDPs at no cost. This is because humanitarian investment contributes to increasing the value of the land by providing physical infrastructure inputs and upgrades to the IDP sites. These could include the construction of housing foundations, sanitation facilities, drainage, water points, and solar electricity. In many cases, school and health clinic buildings have been constructed. The provision of housing materials to IDPs (such as CGI sheets), as well, increases the value of the land and can be subject to appropriation. Landowners, therefore, are provided with the opportunity to repossess exceedingly valuable urban areas developed for them at no cost. They can repossess or increase the rent on such properties with little to no risk of recrimination to higher returns than they were enjoying under the previous arrangements. As a result of IDPs settling on private land and subsequent investment of the land, private property owners propel their land onto a trajectory from low-potential land to high-value real estate.

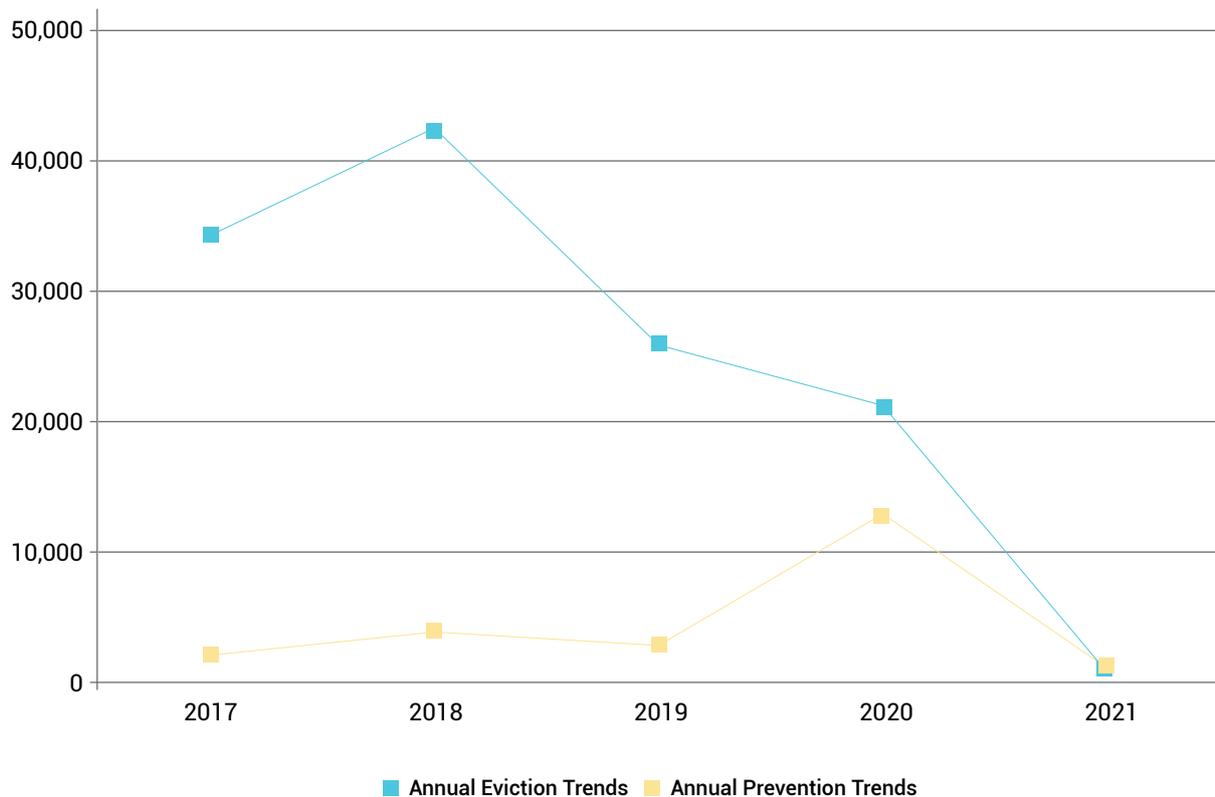
6.

## FORCED EVICTIONS IN BAIDOA

Since 2017, Baidoa District has recorded the third-highest level of documented forced evictions in Somalia, following two districts in Mogadishu.<sup>146</sup> Thousands of displaced people residing in Baidoa live with a constant threat of evictions. While some displaced groups manage to purchase small plots of land around the outskirts of the town, many live on private land without secure tenure agreements and lack access to the knowledge and support required to negotiate their HLP rights. Between 2017 and June 2021, the NRC eviction information portal documented 124,271 evictions in Baidoa in total.<sup>147</sup> Evictions, forced or otherwise, tend to intensify during periods of sustained stability, compared to emergency periods. A little over 87 percent of all cases recorded in 2019, for instance were development-induced<sup>148</sup>, either by government or private property owners<sup>149</sup>. At the same time, historical trends analysis shows that eviction incidents dropped by more than 59 percent during the 2017-18 drought and by 35 percent in 2020 during the COVID-19 pandemic.<sup>150</sup>

Since 2017, Baidoa District has recorded the third-highest level of documented forced evictions in Somalia, following two districts in Mogadishu. Thousands of displaced people residing in Baidoa live with a constant threat of evictions.

Figure 3: Annual Eviction Statistics, Baidoa (2017-2020)



Source: NRC Eviction Information Portal

Although a majority of landowners cite cultural and charitable reasons for allowing displaced persons to settle on their land; there are several aspects of these situations that can contribute to forced evictions. First, the tenure arrangements are often made through verbal agreements. Second,

it appears that in the initial phases of recent cycles of displacement to Baidoa, the implications of its protracted nature are perhaps not given due consideration. As a result, the permitted duration of the stay by displaced people remains undefined. It seems that as time goes on, or as the initial period of the specified time ends, the position of landowners on hosting displaced people changes. Related to this, it is also likely that some landowners make verbal agreements about the length of stay as a grace period during which displaced people are expected to find a more permanent residence. Third, when the initial arrangements were made, land values in Baidoa were still relatively modest. In particular, the demand for peri-urban land was much lower. At present however, peri-urban areas have increased in value and are now destinations for increased investment, business enterprise, and development.

## 6.1 KEY DRIVERS OF FORCED EVICTIONS

**“** *What we have noted that causes or increases forced evictions: 1. **the price of the land**, which has increased over the past eight years. Private individuals own most of the land that IDPs settle on. When they see the land has increased in value, they try to sell. .... They try to evict without giving notice to IDPs. 2. **Urbanisation**, the town is expanding. Five years ago, Baidoa was not where it is now. There has been rapid urbanisation that is taking place. The last houses or settlements of the town that were on the outskirts of town are now part of the town. This contributes to these forced evictions. 3. Another issue, which I have noticed with the forced evictions in Baidoa, is that there are **commercial transactions** between some gatekeepers and business people. Whenever displaced people settle on the land, it becomes marketable and habitable. The gatekeepers will also drive forced evictions by splitting the camp to form another settlement and attract more investment. 4. Also, there is **no appropriate documentation** and **no formal procedures** that involve the government and humanitarian agencies. You see, the agreement is just a ‘gentleman’s agreement.’ <sup>151</sup>* **”**

The causes of forced evictions in Baidoa revolve around a set of intertwined dynamics that encompass: a reliance on verbal tenancy agreements; increasing land values; accelerated and unplanned urbanisation; the commodification of IDP settlements; increase in development-based land or property acquisitions; limited legal and policy frameworks around HLP rights; the lack of legal repercussions for landowners; and the rise in land disputes. The convergence of these dynamics has enabled a situation whereby forced evictions continue to thrive. This section details the drivers of forced evictions in Baidoa in more detail.

## RELIANCE ON VERBAL TENANCY AGREEMENTS

“ Some landowners may not accept to write agreements because they need their land at any moment. They cannot predict what time to sell their land or when they will get a good price. So, if they have a good price for selling their land, and they have a written agreement, there may be a contradiction. The sale requires withdrawing the agreement. Putting in place a written agreement becomes a challenge to them. For this reason, they will say that they do not write any tenure agreement with IDPs. <sup>152</sup> ”

The continued use of verbal agreements between landowners (or their representatives) and tenants in IDP settlements is a primary underlying factor of forced evictions in Baidoa. Based on the most recent site verification exercise carried out in April 2021, 18% of the IDP sites surveyed had oral agreements between landowners and displaced people.<sup>153</sup> The use of what is referred to as “verbal agreements”, “oral agreements” “gentlemen’s agreements” or “internal agreements” place IDP settlement residents at a distinct disadvantage to landowners, settlement leaders, and gatekeepers. Since these tenure agreements are not documented, and they exist between parties of disparate power dynamics, they can easily be broken, amended, annulled, or disregarded—all with limited notice. In circumstances in which landowners decide to sell their land, use it for different purposes or find new occupants, the tenure agreement may end unexpectedly. The communal nature of a tenure arrangement between an IDP community and a landowner further implies the potential removal of not just one household, but rather hundreds of individuals or an entire community. Hence, forced evictions are not only a cause of secondary displacement, but also a multiplier of it.

“ The other thing is the lack of formal land tenure arrangements... A group of 200 to 300 [displaced people] will reside on private land without an official formal document. In addition, this person [the landowner] can come at any time and say: ‘I want my land. You have to go’. <sup>154</sup> ”

The lack of written documentation for tenancy agreements is exacerbated by a possible lack of knowledge about the terms of the agreement. Displaced people may not even be aware of the verbal agreements permitting them to reside in a particular location. However, the gatekeeper who has an agreement with the landowner (or the representative) is aware of the mechanism allowing the tenants to reside on the land.<sup>155</sup> The lack of information about land tenure arrangements puts displaced

communities in a position of uncertainty and vulnerability when requested to provide a portion of their humanitarian aid to the settlement leader or gatekeeper as payment for residing there.

*“ They do have tenure agreements, but these are not written. They are oral. When the people need their land, they can push people out with militia. ...In Somalia, many things are not written down. We are an oral society. If you look at Xeer, there is this unwritten rule between different clans and separate laws for individuals within the same clans. When IDPs have these agreements with the landowners or landlords, they are not legally binding, so that is one of the challenges IDPs face. One of the things that need to be better improved is for agreements to be written down, rather than made orally. <sup>156</sup> ”*

This study also identified several other obstacles to documenting land tenure arrangements or facilitating written agreements to secure land tenure, including:

- **Costs (fees for property rights documentation):** During field discussions, participants identified the cost of formalising tenure documentation as a barrier. Additionally, this study found that in instances where IDPs purchased land from local landowners, they did so without proper land tenure documentation. In many cases, the public notaries and Baidoa Municipality are not familiar with these transactions. These situations result in HLP disputes such as double selling by the previous landowners, boundary disputes, or ownership disputes among the purchasers (IDPs). A detailed breakdown of the costs for facilitating tenure documents for IDPs in Baidoa is included in Annex 1.
- **Lack of standardised approaches:** There is no consensus or standard approach to formalising tenancy or documenting land tenure arrangements in Baidoa. This means that the parties to an agreement do not know if it is official and sufficiently documented, or if it will be upheld as a legally binding document.
- **Insufficient knowledge about the importance of documentation:** In some cases, the lack of a written agreement may be due to a lack of knowledge or the inability to recognise the importance of written agreements. Further still, high levels of illiteracy exacerbate this problem. The majority of displaced people currently residing in Baidoa are from rural areas, where land tenure relationships and property rights primarily function according to customary institutions without formal documentation. When asked why people who are displaced lack an understanding of the significance of written documentation, one source speculates:



Caption: Portrait of community leader in IDP settlement in Baidoa.

“ It is where they come from, or how they have been living in the past. Maybe they have been living in a rural village and they settle on the land with no written agreement. [In rural areas], a farmer settles on a plot without written agreements or legal documents. It has mostly something to do with their background and the way they used land in their places of origin. [Additionally], IDPs, unless they receive guidance from humanitarian agencies, they do not know who to contact to receive this documentation. They lack this type of knowledge and the importance of such documentation. They do not understand the need for these documents. Lack of knowledge, and of the correct institution, on the part of IDPs, is also a challenge of obtaining these documents. <sup>157</sup> ”

- **Misperceptions about written agreements and legal documentation:** Some landowners perceive that producing documentation could weaken their claims to the land or cede more extensive rights to the displaced people living on their land than is the case. One interviewee working for a humanitarian organisation explains:

“ When we send them to the Municipality, the landowner thinks that their land is being taken by the IDPs and they often refuse. After consultations, they accept, but they fear that this type of documentation can lead to the loss of their land in the future. Some are ignorant. Although, they fear they will lose their land- it is not this way. <sup>158</sup> ”

In addition, some landowners fear that if infrastructure such as latrines, water points, schools, health clinics, etc., is installed on their land, it could become susceptible to public acquisition by the government.

## UNPLANNED ACCELERATED URBANISATION

*“ One of the factors causing evictions in Baidoa is that we have unplanned urbanisation, and it is happening at a very fast rate. Baidoa is growing and land is very expensive. <sup>159</sup> ”*

Unplanned urbanisation is occurring at an accelerated pace in Baidoa. The rapid development of the town is identified as one of the many causes of forced evictions. Increasingly, peri-urban lands are in a transitional process, shifting from open rangeland and farmland (held in customary tenure or by families) to private properties that are similar to subdivision enclosures.

*“ A lot of the land has transitioned. Most of the IDPs have settled on lands that are known as farmlands. The town has expanded over the past eight years. ... It has reached land that was not settled [before]. From customary to private. ... The owners changed it from farmlands to lands where people can settle, and this type of expansion is going on. <sup>160</sup> ”*

To be expected, these unplanned urbanisation processes have an impact on the value of land in and around Baidoa. As one key informant explains:

*“ Baidoa is gradually developing and one of the key issues [with forced evictions] is due to this development. You know, you might see land that was provided to a certain community by an individual landowner. Then gradually the town expands, so the owner may have the idea of selling the land, and without notice or information to the community. Due to the development of the town, the person may decide to sell the land for a huge amount of money and can decide to evict the people. <sup>161</sup> ”*

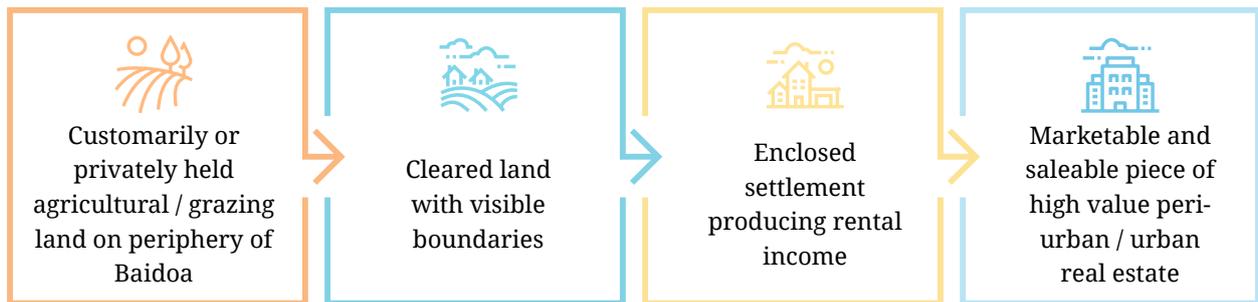
The gentrification of peri-urban agricultural land situates displaced people at the centre of a booming market context- where the potential benefits stream from the land and diversify into higher alternative financial returns. The development of IDP settlements plays a significant role in driving forced evictions of IDPs in Baidoa; as the value of the land increases and offers higher returns for the landowner than leasing out the land for free or collecting rent periodically from residents. The presence of the displaced people themselves also contributes to the marketability of the land; since without them, there would not be a need for increased infrastructure, services, and financial markets in the areas they have settled.

**LAND VALUE AND ALTERNATIVE LAND USE**

The settlement of displaced people on privately owned land causes an increase in the value of the land. This motivates some landowners to attract these people to settle on their land. At the same time, however, increasing land values and viable alternative land uses frequently trigger forced evictions. In particular, this study found strong linkages between rising land values with rapid urbanisation and infrastructure development. As the expansion of Baidoa begins to absorb the peri-urban areas where IDP settlements are situated, this makes them attractive for private development and other more valuable forms of use. With land values increasing, a landowner may unexpectedly decide to sell the land or redevelop it.

Over time, land graduates in a series of property improvements starting from: customarily or privately held agricultural or grazing land on the periphery of urban areas in Baidoa; to cleared land with visible boundaries; to enclosed settlement producing a rental income; to a marketable and saleable piece of high value peri-urban or urban real estate.

Figure 4: Stages of land graduating in a series of property improvements



As part of this process, the land also develops a history of transactional documentation through a sales agreement or verbal witnessing of its ownership, value, and exchange as a commodity. This further strengthens the claim of the owner to the piece of land. As land governance mechanisms are in formative stages in the South West State, there has been no formal land market analysis in Baidoa. Instead, prices are based on perceptions. In the absence of formal land governance mechanisms, the business community in Baidoa has largely taken on this role. Land value is determined by the laws of supply and demand, which are based on relative scarcity and increasing profitability of peri-urban land due to urban expansion. Where services are installed and infrastructure emerges, land values have increased. The perception of investors is that land will continue to increase in value indefinitely. These factors have all contributed to an active land market in Baidoa. Furthermore, investment in private property is one of the main opportunities in which Somalis with surplus capital can capitalise on. As such, private property is a primary banking tool used by business people, diaspora, and influential persons. Land is viewed as both a safe investment option and one that will continue to rise in value without risk. Subject to significant financial attention—through banking, investment, or speculation—the peri-urban land where displaced people have settled is thus susceptible to forced evictions.

## INFRASTRUCTURE DEVELOPMENT

There is a direct correlation between the occupation of displaced people in a particular area, the increase in infrastructure and subsequent land values, and forced evictions. Hosting displaced people creates a series of property developments; as a result, peri-urban land values appreciate, and these areas grow into new centres of urban activity, investment, and infrastructure. Highlighting infrastructure development as one of the factors that influence the increase in land value, this interviewee comments:

“...Accessibility and availability of service points, like water, health centres, and schools. If the land has these kinds of facilities, it will increase differently. Where IDPs settle and these kinds of services are provided for, the land prices increase. It is all interconnected.”<sup>162</sup>

Another respondent expands on this:

“You have to look at the economy and politics- undertake a [comprehensive] political economy analysis. The economic environment is not diverse enough to make a range of investments on a broad spectrum, and this drives speculation and land value increments. You may find that sometimes land is given [to IDPs]. [When] infrastructure comes because of humanitarian assistance, the land value goes up then after a while people are evicted.”<sup>163</sup>

Additionally, there is a direct link between these rising land values and the profitability of selling land after it services and infrastructure are set up. The land is more attractive for sale in comparison to idle land that is unoccupied and undeveloped.

“They [landowners] have the intention of urbanisation. They want to increase the value of their land through the IDPs people that settled on their land. When they see the value and price of the land increase, they ask them to leave. Private individuals have also begun buying and investing in lands beyond the IDP settlements, in anticipation of the expansion of the city that will envelop the area [purchased]. This is because that area will become the centre of markets, businesses, and other infrastructure for IDPs, hence the increase of the land value.”<sup>164</sup>

### IMPUNITY VERSUS ACCOUNTABILITY

Another primary reason that forced evictions have thrived in Baidoa appears to be the absence of legal repercussions for the landowners who evict displaced people in contravention of written or verbal agreements. Matters relating to evictions in Baidoa tend to have been resolved informally through customary interventions, with little statutory recourse possible. This is due to the informal verbal nature of agreements between displaced people and landowners. Displaced people who have unwritten tenancy arrangements lack evidence to avert their evictions. The weak institutional environment has thus created a situation in which landowners and business people can evict those residing on lands without fear of legal consequences.

In the past, there were no formal sanctions against evictions- or if there were, they were seldom enforced. The informality of agreements, even when written, creates ambiguity and a lack of clarity about the details of the arrangements allowing displaced people to live in a particular location. Thus, an important dynamic emerges as to why landowners do not use written documentation for their land tenure relationships with displaced people. When there is no written agreement, the landowner cannot be held accountable for the arrangements made with the IDP communities. When asked about the benefits of not having a formal written agreement in place, one key informant states:

Matters relating to evictions in Baidoa tend to have been resolved informally through customary interventions, with little statutory recourse possible. This is due to the informal verbal nature of agreements between displaced people and landowners.

*“ This was the opportunity for the landowner. If you have no written agreement, no one can charge him. There is no evidence or reference. ”*<sup>165</sup>

In addition, the custodianship of these tenure agreements is an essential aspect for ensuring they are upheld, and there is enforcement of the terms of the agreements. One interviewee proposes that the medium-term solution to forced evictions could be *“the [local] government intervening to ensure landowners uphold the agreements.”*<sup>166</sup> The relevance of custodianship is further reinforced by the fact that avoiding accountability for the terms of tenancy agreements can be partially attributed to the lack of witnesses. Several KIIs, for example, emphasised the role of witnesses as a way to ensure that landowners and gatekeepers honour their agreements. As part of witnessing the arrangements in written agreements, local government institutions have started to play a central role in strengthening the mutual terms of a written agreement, especially in situations in which the parties to an agreement are the landowner or the gatekeeper and the IDP community:

“ My point is that if there is a formal land tenure agreement at the beginning, between the landowner and IDPs, and the government is involved as a third party; the risk of forced evictions will be drastically reduced. Most settlements do not have agreements in which the government is involved. In many cases, we have witnessed frequent eviction risks for settlements that do not have formal agreements. If there is a formal agreement, and the government is involved from the beginning, it reduces the risk. <sup>167</sup> ”

Further to improving accountability, witnessing by local authorities also prevents false claims of ownership or extension of the permission to reside on land by a party that is not rightly authorised to do so according to customary ownership arrangements.



Caption: Makeshift shelter in IDP settlement in Baidoa.

## CAMP SPLITTING

Camp splitting plays a significant role in forced evictions in Baidoa, adding another level of complexity to this phenomenon. It revolves around representation, resource allocation, and access to humanitarian services. Relative to the absolute number of displaced people, the number of IDP settlements in Baidoa has proliferated as settlements continue to break up. An incident of camp splitting may cause both the voluntary and involuntary departure of residents from a settlement.

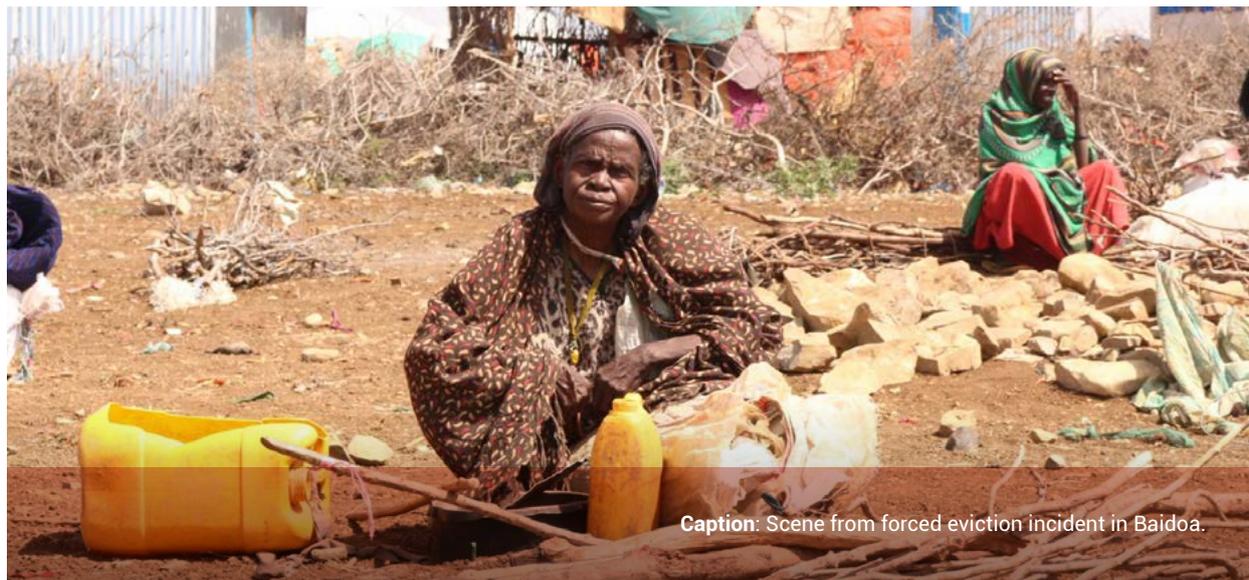
There are several reasons why the IDP settlements in Baidoa split. To begin with, internal disagreements- due to issues related to access to humanitarian assistance flows, coupled with varying power dynamics in an IDP settlement- can contribute to a camp or settlement splitting. Disagreements between the IDP settlement leadership or between the gatekeepers and IDP settlement residents can also lead to camp splitting. For example, a camp leader and the community may come into conflict over assistance or services. Those who are not in agreement with the views of the camp leader may leave the settlement and move to join another with a different gatekeeper or start a new IDP settlement altogether. In cases of camps splitting because of allegiance to or the relationship between some IDP settlement residents and the camp leader, or deputy camp leader, the camp splitting can take on the characteristics of a forced eviction event. As one interviewee explains:

Camp splitting plays a significant role in forced evictions in Baidoa, adding another level of complexity to this phenomenon. It revolves around representation, resource allocation, and access to humanitarian services.

*“ The other form of eviction, not eviction per se, is when the IDP camp leader and deputy camp leader do not agree on one or two things. So, what happens is [that] people are chased away by the camp leader because they have sided with the deputy. This is why we have a large number of IDP sites. The majority of IDP settlements are being split. And it is always because of resources. <sup>168</sup> ”*

Besides internal disagreements on humanitarian assistance, camp splitting can occur due to manipulation by gatekeepers. As summarised by a key informant below:

*“ The gatekeepers are actually ... the playmakers between the landowners and the community. They pretend to be the representatives of the community. They promote eviction occurrences. They will talk to the landowner and they will tell him that they are in charge of his land and community. If any community refuses to pay the share to the gatekeeper or camp leader, they will be evicted. ... The people have no option. They will have to clear the space. <sup>169</sup> ”*



Caption: Scene from forced eviction incident in Baidoa.

Similarly, gatekeepers (or IDP camp leaders) manufacture evictions events to generate new aid flow to locations to receive a much bigger portion of assistance. The following account describes how there can be an incentive to evict tenants to settle in new IDP settlements in order to attract new humanitarian aid flows to their land:

“ ... When IDPs have been assisted, they can have money for a year [for example] through the food vouchers [or any other assistance]. The IDPs become well integrated, and they can then take care of themselves. When landowners or camp leaders see that, they give a reason for them to be evicted. They wait for a new wave of [vulnerable] IDPs to come in and attract these new arrivals to settle on their land. They sometimes even call IDPs in their villages of origin. Then the IDPs inform the agencies that ‘Leader X [for example] is already there and is going to settle us in their place.’ Before they have even left their area of origin, they were in touch with the camp leaders <sup>170</sup>”

At times, IDP communities themselves are complicit in the arrangement to move to a new location so that they can appeal for post-eviction support from humanitarian agencies. This respondent summarises:

“ The landowner and the community will have some types of fake arrangements. The community will then claim the landowner has evicted them. Half of the population will split and move to another location to seek post-eviction support. In this sense, we can say the community is not collaborating with humanitarian actors but looking to get income. <sup>171</sup>”



Caption: Woman outside her shelter washing clothes in IDP settlement in Baidoa.

A government official explains that when camp splitting occurs, the IDP settlements retain the original name—for example, ADC—but assign a new number, such as ADC 2, ADC 3, and so on. The departing community can then identify itself as a new settlement. The government official elaborates at length:

“ Sometimes, the eviction is based on interests. It is becoming a form of business [to] split IDP settlements. You see that a gatekeeper may need to manipulate a certain IDP community, so that his deputy can have means of becoming a gatekeeper. The management of the camps also contributes to this problem. Usually, the vice-chairperson of the settlement convinces some of the IDPs residing there to move with him so they can start a new camp on their own. If we are supporting ADC 1, 2, up to 10, with the same name, we are encouraging this behaviour. ... We [local authorities and the international community] need to address what is happening. There are numerous interests behind this [campsplitting]. We need to understand why this is happening, and support IDP settlements in a more integrated way, where social services can be planned together with the government. <sup>170</sup> ”

Once established as a new settlement, the community can seek new flows of assistance from the government, humanitarian organisations and service providers, as it has become a new socio-political unit.

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## LAND DISPUTES LEADING TO FORCED EVICTIONS

The rise in land disputes remains challenging given the centrality of the dynamics among clans/sub-clans, pastoralist/sedentary communities, IDPs, returnees, and host communities in and around Baidoa. In particular, this study found IDP settlements to be among the most affected because they are often owned by one or more private landowners, leading to forced evictions and the violation of other HLP rights. There are four common types of land disputes in Baidoa. These are:

- Disputes over land ownership, encroachment, inheritance and polygamy, and double selling. These disputes are due to the absence of a robust land registration system, the weak rule of law, and corruption.
- Clan conflict over diminishing natural resources such as land and water/
- Conflicts over humanitarian response. As Baidoa is a humanitarian hub, household-level disputes over humanitarian response are also one of the common disputes.
- Conflicts over water points are common disputes among DACs in Baidoa. The control of queues and shortage of water may trigger conflict between the communities. Most displaced people utilise water trucking provided by humanitarian organisations.

### CASE STUDY V: FORCED EVICTION OF IDPs DUE TO CLAN DISPUTES OVER LAND

In 2020, there was a dispute between the two major sub-clans of the Mirifle clan over a piece of land around the Baidoa Airport. Due to the complex nature of the dispute, it remained unresolved for a prolonged period. During this time, IDPs living on that piece of land were facing constant eviction threats emanating from the two disputing parties, with each party warning the IDP residents of the horrific consequences to follow if they did not vacate the land. When a resolution for the dispute was not reached, twelve IDP settlements comprising 10,230 IDPs were affected and forced to leave the land.

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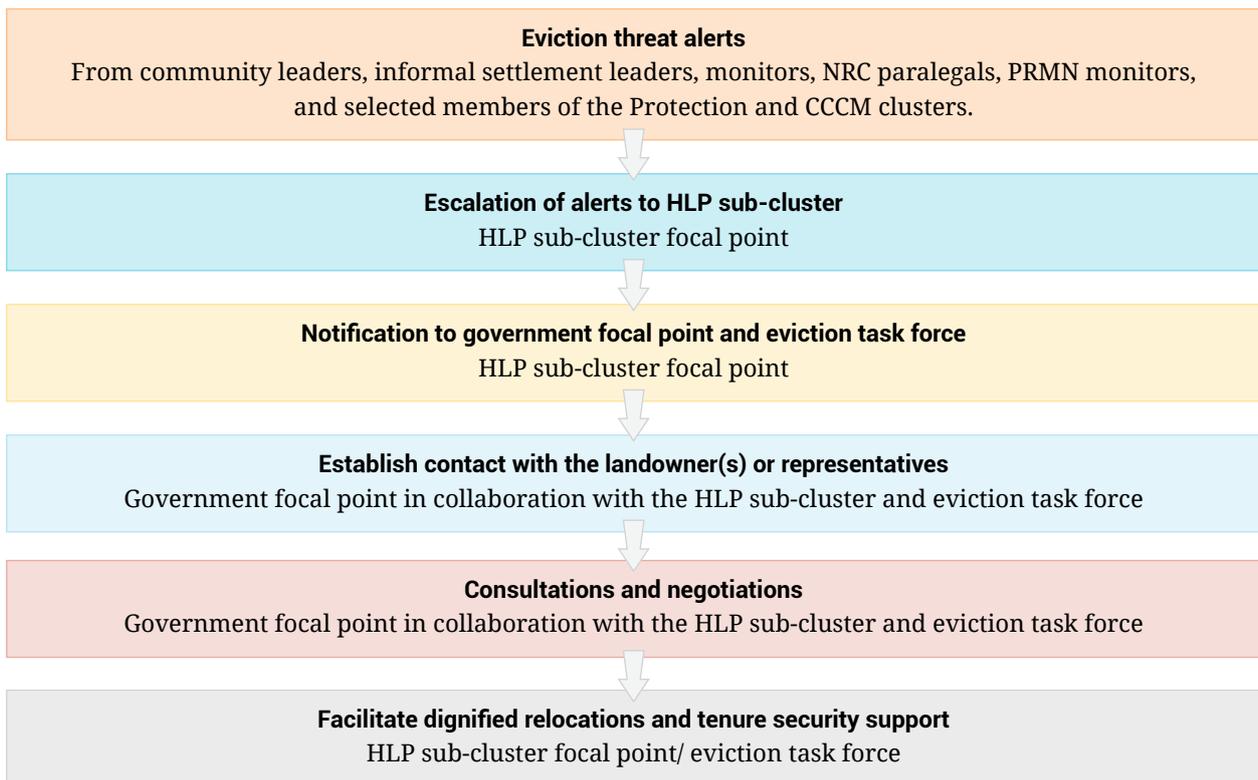
# EVICTION PREVENTION EFFORTS AND INITIATIVES

## 7.1 EVICTION PREVENTION AND RESPONSE IN SOMALIA

Eviction programming can be responsive or preventive. In Somalia, NRC has established a robust eviction monitoring and response programme. NRC and its partners adopt a participatory and inclusive approach to eviction prevention. Monitoring is done through a local network comprising: community leaders, informal settlement leaders, monitors, NRC paralegals and community volunteers, and selected members of the Protection and CCCM clusters. When an eviction event is identified it is reported in real-time.<sup>174</sup> Concurrently, this information is registered into an eviction monitoring platform that provides real-time alerts and updates. These are publicly available through an online information portal.<sup>175</sup> Once an alert is received, a diversion or mitigation response is activated. Government focal points are notified and either they or a qualified NRC staff establish contact with the landowner or representative(s) attempt to resolve the dispute so that the eviction threat is dropped and the occupants' tenure is temporarily assured (diversion) or, if eviction is unavoidable, to negotiate sufficient time to safely relocate the occupants to a new site. With the extra time, NRC and its partners attempt to find a new site or accommodations for dignified relocation and provide emergency cash support (mitigation). Once the eviction threat is diverted or mitigated, government focal points and NRC staff negotiate with landowners to provide a written commitment to secure the tenure of occupants for several years as a means to prevent future arbitrary evictions.<sup>176</sup>

Eviction programming can be responsive or preventive. In Somalia, NRC has established a robust eviction monitoring and response programme. NRC and its partners adopt a participatory and inclusive approach to eviction prevention.

Figure 5: Procedural flowchart for eviction prevention and response



Source: NRC Somalia HLP AoR

### CASE STUDY VI: EVICTION PREVENTION EFFORTS TO SECURE EXTENSION OF NOTICE FOR IDPS IN TAWAKAL ADC SETTLEMENT, BAIDOA

Sangaabo (not her real name) is an IDP woman living in Tawakal ADC Settlement in the ADC zone of Baidoa town, and she is a single mother of eight children (five boys and three girls). In 2014, Sangaabo and her family were displaced from Buulo-Barako due to the lack of livelihoods and insecurity. Prior to receiving any intervention by NRC, Sangaabo lived in a makeshift shelter in the IDP settlement. In 2015, NRC negotiated for a 5-year tenure arrangement with a landowner on private property for Sangaabo and other IDP households living in Tawakal ADC Settlement. NRC also provided direct cash to IDP households in this settlement to purchase materials and construct their own shelters. In 2020, she and the residents of Tawakal ADC Settlement faced many threats of forced evictions after the landowner refused to extend their period of residence after the tenure agreement expired. Sangaabo and her family were vulnerable and did not have any other option of alternative land to reside on. When the negotiations between the landowner and the IDPs failed, the IDP camp management committee contacted the NRC ICLA team to intervene. NRC then provided HLP training and information

sessions to all the residents of Tawakal ADC Settlement to equip them with the necessary skills and knowledge on their HLP rights and the use of the Collaborative Dispute Resolution (CDR) approach. Subsequently, Sangaabo and the other residents of Tawakal ADC Settlement could then sit with the landowner again and enter into another round of negotiations. NRC facilitated these negotiations, and they were successful. The landowner offered the vulnerable IDPs a two-month notice period to find alternative land.

NRC then provided post-eviction cash support to 100 IDP households living in Tawakal ADC Settlement. Each household received a USD 100 cash voucher, which enabled them to relocate to a new land unaffected. They were also able to remove their CGI shelters that they had constructed without demolishing the structures<sup>177</sup>. Sangaabo is now living in her shelter in the new site with a written tenure agreement of seven years. She and her children have no fears of forced evictions. She also takes part in dispute resolution processes in the camp due to her experience with CDR approaches.

## 7.2 EVICTION PREVENTION AND RESPONSE INTERVENTIONS

In 2018, Baidoa recorded the highest number of eviction incidents affecting 42,224 individuals, followed by a 39% decrease in 2019 (25,722 individuals) and a further 22% decrease in 2020 (21,120 individuals).<sup>178</sup> This steady decline attributes to a combination of the increase in prevention efforts, awareness activities, and the growing involvement of local authorities in Baidoa. Evictions prevention and response initiatives require a cross-sectoral approach that involves government, humanitarian, development, and community stakeholders, including the landowners and affected populations. The advantage of multi-stakeholder approaches is critical to achieving durable solutions for DACs.<sup>179</sup> Such holistic approaches allow actors with diverse sets of expertise and areas of influence to come together and work on various aspects of displacement at different levels. The situation in Baidoa demonstrates a suite of good practices that offers a valuable case study of how coordinated multi-stakeholder efforts and government-led initiatives can be effective as complementary measures in addressing HLP issues, especially forced evictions. Baidoa local authorities scaled up eviction government-led prevention efforts following mass eviction events in Mogadishu in late 2017. These incidents prompted local authorities to anticipate and proactively plan for potential evictions in other locations.<sup>180</sup> The former Mayor of Baidoa, Watiin Abdullahi Ali, states:

“ After mass evictions took place in Mogadishu at the end of 2017, the Baidoa Municipality held a meeting for UN organisations, international NGOs, government ministries, the people of Baidoa—particularly the landowners—municipality staff, elders, religious leaders, women, IDPs and the security sector in 2018. [The main objective was] to discuss how best to mitigate the effects of evictions and to seek other sustainable solutions. As an effort to implement durable solutions interventions in Baidoa, there were multilateral discussions on how IDPs in Baidoa could obtain rights to land ownership after they had been evicted by the landowner. <sup>181</sup> ”

There are several notable eviction prevention and response interventions in Baidoa that this section will explore in more detail. These include: the establishment of an eviction task force; enhanced technical and operational capacity at the Baidoa Municipality and Cadastral Services; improved administration of tenure and lease agreements; enforcement of an evictions moratorium; increased purchasing power of IDPs; and amplification of a range of advocacy, outreach, and awareness-raising activities.

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#### THE ESTABLISHMENT OF THE BAY EVICTION TASK FORCE

The need for a concerted and coordinated effort to address forced evictions in ways that contribute to and sustain durable solutions initiatives necessitated the establishment of the Bay Eviction Task Force. The task force is a primary example of a government-led multi-stakeholder forum that works collaboratively to prevent evictions and address all related HLP issues in Baidoa. Established in May 2020, the task force is an inclusive umbrella of various actors working to: enhance prevention and response capacity; lead eviction preventive engagements, negotiations, and advocacy initiatives with government and landowners; and strengthen overall coordination efforts on forced evictions, serving as a liaison between the displaced communities, landowners and government and humanitarian stakeholders.<sup>182</sup> The membership is open to any interested party who demonstrates a commitment to these objectives. The South West Commission of Refugees and IDPs (SWCRI) chairs the task force and NRC (representing the HLP sub-cluster) co-chairs.<sup>183</sup>

Adequate protection of HLP rights is critical to overcoming barriers faced by DACs. The establishment of the Bay Eviction Task Force has been central in providing the space for dialogue by building a common understanding with different actors and local authorities on HLP matters, and acting as a platform for critical learning and reflection. No single entity or organisation can address all the complexities of displacement, and the creation of such a coordination mechanism has exemplified the humanitarian-development nexus. One key informant sums up the value of a government-led multi-stakeholder approach to preventing evictions in Baidoa this way:

*“ When you have government leading, it is much easier to have successful outcomes in your work because they understand the intricacies involved. If we have local authorities leading the process, then it is much more sustainable... to go through them than to do it as an organisation. <sup>184</sup> ”*

#### **EVICITION PREVENTION ACTIVITIES UNDERTAKEN BY THE BAY EVICTION TASK FORCE**

- Facilitated monthly coordination meetings with the eviction task force members, which has led to well-coordinated preventive engagements.
- Undertook daily routine field visits and outreach to identify IDP sites with the highest risk of evictions to trigger an immediate response.
- Organised routine mediation and negotiation meetings to resolve land disputes. In aggregate, four to five meetings take place during the negotiation and mediation process.
- Conducted monthly eviction risk analysis, which has led to more proactive engagements with government, private landowners, and IDP leaders. The focus is on IDP sites facing extreme and or high risk of forced evictions.
- Improved access to tenure security for IDPs mainly through documentation of tenure arrangements, the extension of lease agreements, and greater access to land tenure documents. For example:
  - In 2020, the Bay Eviction Task Force negotiated the extension of lease agreements for 19 IDP sites (1,407 households) and facilitated the issuance of written tenure documents for 37 settlements that had oral agreements with the landowners.
  - The Baidoa Municipality with the technical support of NRC facilitated the acquisition of more than 3000 tenure documents to IDPs.

#### **MORATORIUM ON EVICTIONS DURING THE CORONAVIRUS (COVID-19) PANDEMIC**

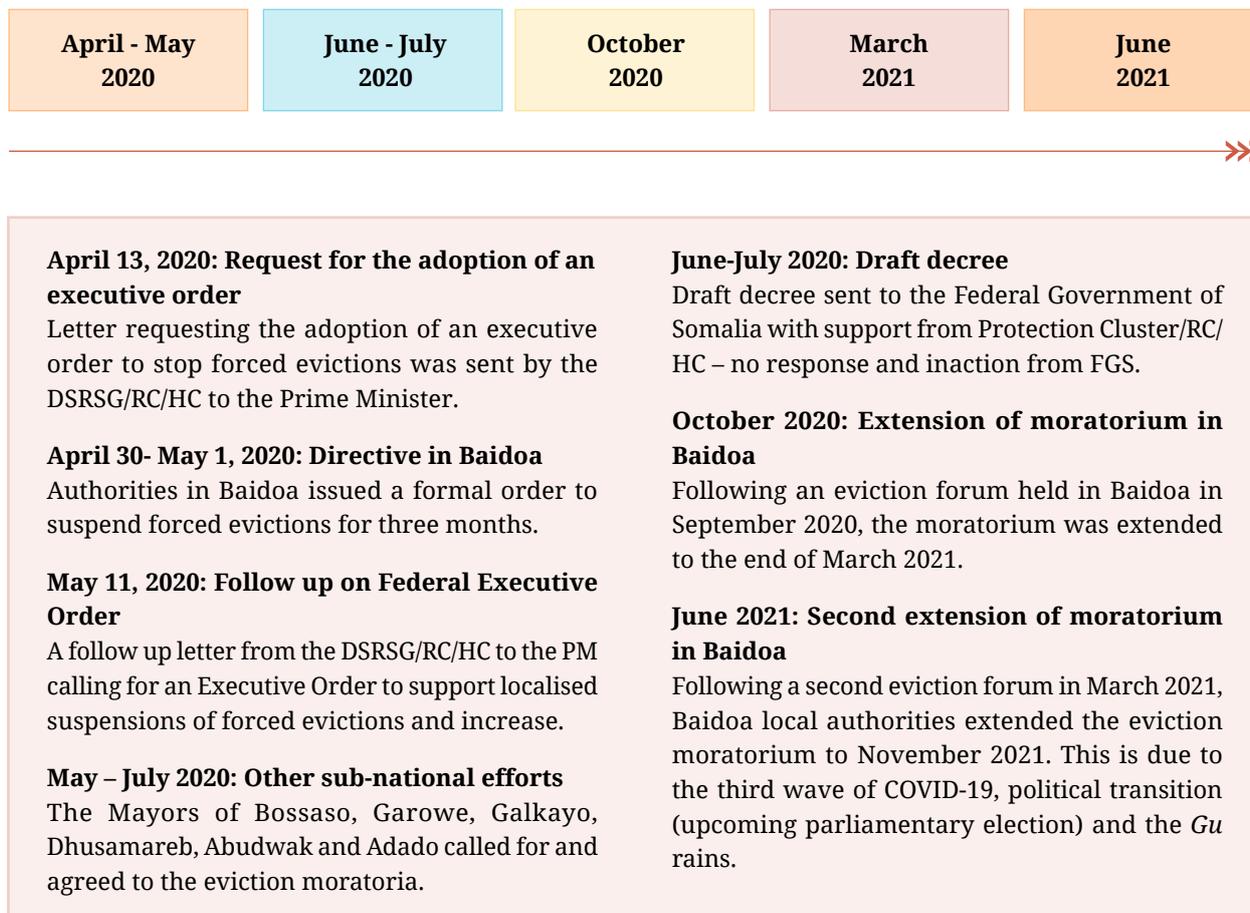
A moratorium is a temporary suspension of activity until future events warrant lifting of the suspension or related issues have been resolved.<sup>185</sup> Moratoriums are often imposed in response to temporary hardships. In the case of Somalia, the moratorium aimed at halting forced evictions during the COVID-19 pandemic. The eviction moratorium like quarantine, isolation and social distancing was an effective measure utilised to prevent the spread of the communicable disease.<sup>186</sup> Eviction moratoria allowed states implement directives more easily in order to mitigate the community spread of COVID-19.<sup>187</sup> Furthermore, through scientific modelling, evictions moratoria have been revealed to be an important aspect of COVID-19 control.<sup>188</sup>

In April 2020, due to advocacy efforts by the Somalia HLP Area of Responsibility (AoR) and the Resident Coordinator's Office, a letter requesting the adoption of an executive order to stop forced evictions was sent by the Integrated Office of the Deputy Special Representative of the Secretary-General (DSRSG), Resident and Humanitarian Coordinator for Somalia to the Somalia Prime Minister.<sup>189</sup> In May 2020, the Baidoa District Administration, agreed to the moratorium, and consequently issued an official directive suspending evictions during the pandemic for an initial period of three months. The Mayor of Baidoa issued a warning of legal action for landowners who disobeyed the directive.<sup>190</sup> NRC points to the "threat of legal action"<sup>191</sup> as one of the key ingredients to the success of the moratorium. Interview respondents for this study acknowledged the introduction of a plausible legal consequence for landowners effecting forced evictions as an effective measure that was taken by local authorities. While discussing the success of the moratorium, one respondent explains how important it has been for the local government to take the lead:

*“ The moratorium is an interim measure, and part of a government directive halting forced evictions during an emergency. Prior to enforcement of the moratorium, there was engagement between the DC [District Commissioner], the South West Commissioner of Refugees and IDPs, and the landowners. What makes it [the moratorium] effective is prior discussion and engagement, and government involvement. local authorities were following up and the landowners accepted the directive. I think COVID-19 is the reason. And also, the government took the lead in making sure that forced evictions were halted during the COVID-19 period. ”*<sup>192</sup>

In order to diversify information and awareness on the moratorium, NRC substantially scaled up messaging on the moratorium through different channels including live television shows, radio, billboards, short message services (SMS), and structured HLP information sessions.<sup>193</sup> Besides monitoring of the implementation of the eviction moratorium, carried out primarily through a network of paralegals, community volunteers, caseworkers and DAC committees, the frequency for analysing eviction risks was increased from quarterly to monthly. The moratorium combined with the political will of the Baidoa Municipality and South West Commission for Refugees and IDPs on addressing the forced eviction phenomenon in Baidoa, contributed in many ways to a record zero eviction incidents from May 2020 to March 2021. These concerted efforts also laid the groundwork for the successful prevention of forced evictions of an estimated 12,883 individuals.<sup>194</sup>

Figure 6: Chronology of actions taken on the Eviction Moratorium since April 2020 to date



## IMPROVING LAND TENURE SECURITY

Establishing formal tenure arrangements and facilitating written agreements between displaced people and private landowners is crucial for preventing forced evictions. Formal land tenure documentation is evidence of the legal right of a displaced person to occupy the land. Written tenure documents provide valuable proof for use in statutory courts and during the resolution of disputes using alternative dispute resolution mechanisms.<sup>195</sup> Strengthening access to formal tenure documents has also created entry points for state building for example through strengthening the capacities of local authorities on land registration and conflict management with local host communities.<sup>196</sup> Likewise, since 2015, the Baidoa Municipality has collaborated with NRC to implement a land titling project in the city<sup>197</sup>. Consequently, more than 70,000 individuals in Baidoa have achieved tenure security (see annex 3).<sup>198</sup>

Formal land tenure documentation offers displaced people increased tenure security to reduce the risk of forced evictions. The anchoring established through secure tenure also yields several other advantages. Ideally, it provides predictability eliciting investments from displaced people themselves to improve housing, and stability to pursue livelihoods within a reasonable distance. Additionally, tenure security protects displaced people from being forced to move to the outskirts of periphery urban areas. In many cases, these are places where individuals are more susceptible to a variety of protection concerns including SGBV, security issues, and lack of protective elements provided by their former community structures. During the process of gaining land tenure documentation, strengthening the capacities of local communities in HLP issues remains imperative. NRC, for example, works with DAC communities to increase their knowledge on land tenure security and non-adversarial dispute resolution methods. Information services offered can encompass issues related to security of tenure, evictions, administrative and legal procedures, women's access to HLP rights, and the roles and responsibilities of different actors in relation to their HLP rights. Moreover, individuals seeking help to overcome obstacles in exercising their HLP rights can access counselling and legal assistance services.

#### UPDATES ON LAND GOVERNANCE ADMINISTRATION IN BAIDOA

Recently, there has been ongoing engagement with the Baidoa Municipality regarding a contextually appropriate and feasible option for efficient land administration. Following the change in leadership at the Baidoa Municipality 2019, the process of developing a digital land information and management system (that began in 2018) was deprioritised. The Baidoa Municipality concluded that they lacked the necessary capacity and infrastructure to operationalise a complex electronic land registration system. The Municipality concluded that they lacked the capacities and infrastructure to operationalise an electronic land management system. The Municipality sought to prioritise the construction of office units instead.<sup>199</sup> Subsequently, the Municipality with technical support from NRC developed a simple Excel-based platform for land registration, which provides a starting point for an upgrade into a more complex system in the future.

Furthermore, durable solutions and peacebuilding efforts have improved technical and operational capacity at the Baidoa Municipality and Cadastral Services and increased community engagement in land-related processes. Increased engagement on land governance issues by a wide range of actors has provided the opportunity for local communities and policymakers to convene, discuss, and explore ways of strengthening tenure security, preventing evictions, and expanding secured access to land and land-related services. The establishment of new dispute resolution committees and revitalisation of existing ones at the community level through the provision of technical and material support by various HLP actors has substantially increased local capacities to resolve and manage HLP conflicts.<sup>200</sup> Baidoa Municipality has also established a Land Committee at the municipality level to sort out land conflicts in the District.

## PROMOTING ACCOUNTABILITY IN LAND TENURE DOCUMENTATION

Documenting land tenure arrangements between landowners and IDPs is one of the most effective ways of protecting DACs from forced evictions. To mitigate the risks associated with the over-reliance of oral agreements, the Baidoa Municipality has put in place additional measures to ensure accountability by landowners. As explained by one interviewee:

*“ Oral tenure arrangements are informal and inconsistent. Today they [IDPs] stay here [to settle on the land], but if the landowner tomorrow gets a high value, he will ask them to leave. There will be no complaint to the local authority because we did not advocate for them [did not witness the agreement].”* <sup>203</sup>

The Baidoa Municipality and the South West Commission of Refugees and IDPs have a responsibility to oversee land tenure arrangements, including any agreement between landowners and IDPs. For community-owned and private land, IDP leaders or landowners are required to enter a contractual arrangement before engaging in any land transaction. The landowner should issue an offer letter that is the basis for drafting an agreement hence formalising the land tenure arrangement.

Parties to the tenancy agreement are referred to the Baidoa Municipality offices where, with the assistance of a public notary, the written agreement is notarised and registered.

*“ Before the [Bay Eviction] Task Force, IDPs would never come to the District Administration to initiate a search (including writing a letter of request to the District Administration for land to settle on). They would instead go directly to the landowner and have a ‘gentleman’s agreement’ and commence construction of their shelters.”* <sup>204</sup>

In addition, Baidoa local authorities require a formal agreement between the landowner and the IDP community, averting the involvement of a representative or gatekeeper, who may or may not represent the genuine interests of either party. In situations where the terms and conditions of the documented tenure arrangements are breached, the Bay Eviction Task Force can intervene to protect the interests of the displaced community. A government interviewee explains:

*“ The District Administration should provide a lead role in regulating tenure arrangements including formalising agreements affecting ownership, use, and transfer of Housing, Land, and Property within IDP settlements. The other issue is that all IDP documentation should be witnessed and triangulated by the [Bay Eviction] Task Force and Municipality. This is something that local authorities can embark on to reduce evictions. <sup>205</sup> ”*

Reinforcing the role of local governments' involvement and efforts in ensuring accountability by landowners, this interview respondent explains:

*“ There are examples in Baidoa where the landowner offered a plot of land for 15 years, but they [the displaced people residing there] got evicted after only five to six months. Unless the offer is made in consultation with the Municipality, it is not reliable. Reliability is, [therefore] an issue in the formalisation of land agreements. <sup>206</sup> ”*

Witnessing agreements between the landowners and the IDPs, the Baidoa Municipality, the SWCRI, and NRC ensures the agreements are notarised and registered to promote accountability by landowners. Landowners are required to uphold the obligations outlined in these agreements. During the documentation of land tenure arrangements, representatives from the IDP community, landowners, authorities, and relevant agencies act as witnesses to formalise the arrangements. Consequently, this has increased access and ownership by displaced persons.

Any opportunity to integrate the legal systems and mechanisms of the South West State with more robust measures to promote accountability such as municipal oversight and endorsement of land tenure arrangements, public witnessing during the formalisation of these arrangements, and civil society monitoring would further enhance the security of land tenure for DACs.

#### CASE STUDY VII: PROVISION OF LAND TENURE DOCUMENTS TO IDPS IN BELEDUL AMIN 2 SETTLEMENT

Beledul Amin 2 settlement lies in the ADC zone of Baidoa town, and the IDPs of the settlement lived on the privately owned land with a five-year tenure agreement. The camp accommodated 172 IDPs households displaced from villages in Diinsoor and Qansahdhere Districts of Bay region. In 2013, these households fled drought and insecurity. Once the 5-year tenure agreement ended in mid-2019, the landowner asked the residents to leave his land, as he wanted to sell it. The landowner informed them that his brother was arrested due to disputes over a loan and he needed to sell the land to repay the debt. The landowner

did not provide any notice period to the residents. Once alerted of this case, NRC negotiated with the landowner to provide a one-month notice period to the IDPs. The residents sought an alternative land of their own and relocated to avoid any other displacement or eviction. After coming together, the IDPs bought a land near the Baidoa Electric Company Centre. NRC facilitated the acquisition of land tenure documents for the residents including verification of these documents through Xaqsoor Public Notary. The IDPs in Beledul Amin 2 settlement are now peacefully leaving on their land.

#### GOVERNMENT-ALLOCATED PUBLIC LAND

*“ Allocation of the land for the IDPs is one of the good approaches that will be used to replicate in the future, and will be very essential to prevent forced evictions. But we are not ruling out that the government has challenges when it comes to land, but it is the role of the government to protect its people, including to prevent forced evictions. For attainment of durable solutions, the first priority is land and for prevention of forced evictions. I think that is a key priority for IDPs. ”* <sup>207</sup>

Permanent and documented land allocation for DACs in Somalia is identified as one of the most effective ways of securing tenure, preventing abuse, avoiding disputes, and facilitating the achievement of durable solutions.<sup>208</sup> The provision of public land preferably government-allocated plots of land for the (re)integration of displaced people at high risk of eviction is one of the strategies that is used to address the eviction phenomenon in Baidoa. The initiative taken up by the SWS government demonstrates the political will to address forced evictions and to work toward the sustainable integration of displaced people into the urban architecture of Baidoa. Critical to the success of this initiative is the need to go beyond a sectoral approach towards an area-based approach around land and urban planning underpinned by coordination between humanitarian and development actors under the leadership of local authorities.



**Caption:** Houses constructed by displaced communities relocated to Barwaaqo in the first phase.

### EXAMPLES OF GOVERNMENT ALLOCATED PLOTS OF LAND IN BAIDOA

■ **Barwaaqo Site:** In 2018, the Baidoa Municipality assigned the Barwaaqo site to support the reintegration of DACs that were at the highest risk of forced evictions. The Baidoa local authorities collaborated with IOM and other partners to support this initiative.<sup>209</sup> An inter-ministerial and inter-agency task force under the overall leadership of the Baidoa Municipality led the development of the new site. The Barwaaqo Integrated Settlement accommodates both IDPs and host communities. The development of the Barwaaqo site by a wide range of different actors through an integrated approach is a concrete example of the operationalisation of the humanitarian-development-peacebuilding nexus. The construction of the new public site included preparation and demarcation of the plots of land along with water and sanitation facilities, two police stations, a community centre, and solar streetlights to support the health, hygiene, and safety of individuals.<sup>210</sup> Road improvements eased access and transportation to local markets and to link with host communities. During the first phase in 2019, 1000 households (6,116 individuals) relocated and they were provided with plots of land and vouchers to help them construct shelters of their choice.<sup>211</sup> During the second phase in 2021, another 1009 households relocated to the site. Furthermore, after increased advocacy efforts led by NRC, Baidoa local authorities have agreed to issue land tenure documents to the 2009 households relocated to Barwaaqo. The Baidoa Municipality will provide an official

letter, which will be attached to the certificates of title to exclude the 'rights of transfer or sell' by residents for some time (i.e. 10-15 years).

■ **ADC Zone land in Wadajir Village:** Public land in the ADC zone of Baidoa District was first earmarked for the reintegration of DACs in 2018. At the time, the land provided a potential opportunity to pursue as IDPs from the Sagal sub-clans had shown reluctance to relocating to Barwaaqo site situated in eastern Baidoa. Due to the clan configuration in Baidoa, they expressed preference in relocating to ADC zone since they had affiliations with the clan that live on that side of town. Although, Baidoa local authorities<sup>211</sup> have indicated the interest in providing this land for the reintegration of DACs, no allotment letter has been issued to this effect. The land which is currently empty is the same size as Barwaaqo. At the time of writing this report, there were ongoing discussions with the local authorities on the allotment letter for this piece of land to enable development of the site.

■ **Towfiq Village:** In 2019, public land in Towfiq village was provided by the Baidoa local authorities for the construction of 200 permanent housing units for returnees, IDPs, and vulnerable host communities. In 2020, after INTERSOS left Somalia operations, the activity was postponed. NRC was to facilitate the acquisition of land tenure documents to the DACs after the construction of the houses. UNHCR was funding the construction of the housing units. At the time of writing this report, there was no clear plan on the way forward for this project.

## LAND PURCHASES BY IDP COMMUNITIES TO AVOID FORCED EVICTIONS

**“** *There are now more IDPs who have the capacity to buy communal land to avoid forced evictions. They are coming together, forming a group and buying land, so that they are not evicted.* <sup>213</sup> **”**

In Baidoa, many examples have emerged of IDPs pooling money to purchase land to avoid forced evictions. Identification of landowners willing to sell or donate tenure-secure land holdings for the settlement of displaced people could be one long-term solution to forced evictions. This approach could assist displaced people to avoid some of the opportunistic arrangements inherent to IDP settlement dynamics in Baidoa. A recent mapping conducted by NRC found 52 sites in which IDPs purchased land through communal contribution. These IDPs bought the plots of land in the Hanano and ADC zones of Baidoa town. Some IDPs subsequently relocated to the new locations while others still wait to receive assistance from the State and humanitarian agencies. Support needed to relocate includes relocation and housing support, provision of Non-Food Items, Water, Sanitation and Hygiene (WASH) assistance, and education support.

HLP actors should re-orient their strategy in Baidoa to support IDPs who are pooling money to purchase land to avoid forced evictions and achieve local integration. In many instances, however, the Baidoa Municipality is not familiar with these transactions. The majority of the IDPs have also purchased their plots of land from local landowners without proper land tenure documentation. These situations result in a rise of HLP disputes such as double selling by the previous landowners, boundary disputes, and ownership disputes among the purchasers (IDPs). Importantly, there is a need to ensure the linkage of site planning and demarcation for these plots of land with wider urban planning processes in Baidoa using an area-based approach. Guaranteeing that the site plans are linked with the Baidoa Township Plan and the city extension strategy to enable the connection to services and infrastructure remains imperative. Increased sensitisation and awareness of DAC communities on general land procedures is therefore, needed to empower IDPs to actively seek support from the Baidoa Municipality and HLP actors before purchasing these plots of land to avoid risks associated with the sprawling of largely unplanned, spontaneous, and chaotic settlements.

### CASE STUDY VIII: COMMUNAL PURCHASE OF LAND BY IDPs IN EDKIYAL SETTLEMENT, BAIDOA

Since January 2020, IDPs in Edkiyal settlement were facing threats of forced evictions from multiple parties claiming the ownership of the land they had settled on. These various parties were in conflict with the IDPs, as they wanted to confiscate the land. However, the camp leader of Edkiyal remained adamant about not leaving since the previous landowner that allowed the IDP households to settle there had been missing for seven years, and his whereabouts remained unknown. At the same time, children of two different wives of the brother of the missing landowner and the landowner's children were

disputing over ownership of the land. On one hand, the children of the missing landowner claimed that their father was the legitimate owner, but, on the other hand, their cousins argued that their uncle owed his brother money, which gave them the right to take over the land. The IDP residents of Edkiyal that were living on the plot of land since 2012 had a written ten-year tenure agreement with the missing landowner. Since January 2020, however, the residents started facing eviction threats when different land brokers visited the settlement daily and measured the land without informing them.

*“When we asked the land brokers about their daily trips to see and measure the land, they told us that the land is for sale. They kept telling us different stories about different people who sent them to facilitate selling the land including, the children of the missing landowner who previously allowed the IDPs to live in this land.”*

Abdi Shukri, Edkiyal IDP settlement leader

Due to the complexity of the land dispute, the camp leader convened the IDP residents to a consultative meeting to discuss measures to avoid forced evictions and possibilities of seeking out alternative land to relocate to. After lengthy discussions, the IDPs decided to pool money together to buy land for permanent ownership. For five months, the residents of Edkiyal contributed their savings to a pooled fund. Meanwhile, the dispute between the various parties became even worse, with increasing threats from each party to evict the IDPs. The camp leader shared the problem with IHRO (Isha Human Rights Organisation), a local Protection Return Monitoring Network (PRMN) partner, then referred the case to NRC. Subsequently, NRC intervened and tried to facilitate a mediation process using CDR approaches. The mediation was unsuccessful as all parties refused to come together to discuss the dispute. The camp leader then presented the conflict at the Baidoa District Court (a member of the Bay Eviction Task Force).

Due to this escalation, NRC submitted the case to the Bay Eviction Task force under the leadership of the SWCRI. The Commissioner then contacted the District Court and requested it to return the ongoing case to the Bay Eviction Task Force to solve it amicably. The court accepted this request.

The eviction task force then brought together all the parties involved in the land dispute. The SWCRI facilitated this meeting, and it resulted in the following outcomes:

- Provision of adequate notice to the IDPs of Edkiyal Settlement. A notice period of 60 days (two months i.e. September and October 2020) was agreed upon.
- Avoidance of any disturbance to the IDPs to ensure they could relocate peacefully.
- The Bay Eviction Task Force would verify the transaction made by the IDPs on the new plot of land located in the Hawl-wadaag section on the northern side of Baidoa near Ali-Ahmar Checkpoint.
- The IDP residents would erect their CGI shelters peacefully to rebuild these on their new land.
- NRC would support the site planning process and demarcation of the new plot of land.

The IDPs of Edkiyal Settlement successfully relocated and they are now enjoying a peaceful environment without fear of forced evictions.

## GOVERNMENT-LED MULTI-STAKEHOLDER HLP FORUMS ON FORCED EVICTIONS

Increased communication between landowners and IDP communities could help both parties understand the complex dynamics, issues, and needs that affect each of them. The organisation of multi-stakeholder eviction forums in Baidoa can improve dialogue on a wide range of HLP issues between local authorities, landowners, DACs, and operational agencies. Such inclusive forums can also provide the opportunity for different stakeholders to convene, discuss, and explore ways of enhancing tenure security, strengthening eviction monitoring, prevention and response, and expanding secured access to land and land-related services.

In Baidoa, two such HLP forums were convened in September 2020 and subsequently in March 2021 under the leadership of the Baidoa Municipality and the SWCRI, in partnership with NRC. Various line ministries and local institutions such as the Ministry of Planning, Investment and Economic Development, Ministry of Justice, Ministry of Interior and Local Government, Ministry of Education, Ministry of Humanitarian Affairs and Disaster Management, and the Baidoa District Court participated in the events. In addition, consultative and participatory approaches were used to ensure that participants could openly share their concerns on the current eviction risks and the effectiveness of the prevention and mitigation measures in Baidoa.

Among key discussions were: (1) the importance of an inclusive approach to address forced evictions in Baidoa; (2) prioritisation of localised alternatives for the protection of HLP rights; (3) the importance of adhering to legal evictions processes; and (4) ensuring greater access to justice by DACs. Such HLP forums have also increased the awareness of the National Eviction Guidelines and adherence to international legal standards on forced evictions.<sup>214</sup>

## MULTI-STAKEHOLDER EVICTION RISK MAPPING AND ASSESSMENTS

HLP actors in Baidoa, including local dispute resolution committees, have undertaken multi-stakeholder eviction risk assessments. These exercises include regular monitoring of at-risk sites by collecting data on tenure type of IDP settlements and vulnerability to evictions. Once the data is cleaned, verified, and analysed, eviction risk maps and trends analyses are produced. In 2019 and 2020, the HLP Area of Responsibility commissioned two major comprehensive eviction risk assessments in Baidoa. The CCCM cluster and its partners, NRC, and other humanitarian organisations carried out the assessments. The objectives were threefold:

- Identify and map communities at extreme or highest risk of evictions.
- Establish the underlying factors promoting and sustaining forced evictions.
- Inform an operational roadmap for the Bay Eviction Task Force.

The findings from the eviction risk assessments were disseminated among local authorities, CCCM partners, and various clusters to trigger appropriate protection responses. Similarly, regular eviction risk maps and early warning alerts are shared monthly with the Bay Eviction Task Force members and the local authorities to promote joint planning and coordination on eviction prevention.



**Caption:** Participant at HLP forum in Baidoa.

Figure 7: Eviction risk severity scoring framework

Select one	Criteria for determining the severity scores	Severity scores
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>■ Agreement already expired</li> <li>■ Eviction planned – date is fixed</li> <li>■ Eviction threat issued – date is open</li> </ul>	<p>Extreme</p> 
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>■ No Agreement</li> <li>■ Monthly open-ended</li> <li>■ Expiring in &lt;1yr - renewal rejected</li> </ul>	<p>High</p> 
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>■ Expiring in &lt;1yr - renewal pending</li> <li>■ Expiring in ≥1yr - renewal pending</li> <li>■ Public land authorised occupancy</li> </ul>	<p>Medium</p> 
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>■ Short-term lease: ≥2&lt;5yrs</li> <li>■ Long-term lease &gt;5yrs</li> <li>■ Permanent tenure agreement</li> </ul>	<p>Low</p> 

**NRC EVICTION INFORMATION PORTAL**

The strategic relevance accorded to eviction as a pressing protection concern in Somalia would not have been possible without systematic monitoring, documentation, and reporting of the incidents and trends. NRC has introduced an innovative and technologically advanced approach to strengthening data collection, storage, and analysis in collaboration with the government and Protection Cluster. The overall objective is to enhance the reliability and availability of eviction data. Countrywide eviction information is now available through an online information portal powered by Microsoft Power BI. Trends analyses are prepared regularly and circulated to inform humanitarian planning and advocacy and trigger specific protection responses by relevant service providers.

To access the eviction information portal visit:  
<http://nrccsystems.net/forcedevictions/index.php>

**7.3 VALUE FOR MONEY IN EVICTION PREVENTION INTERVENTIONS**

From 2017 to June 2021, 22,945 individuals were prevented from forced evictions in Baidoa.<sup>215</sup> Based on extrapolation of historic data for extreme vulnerability among eviction victims, at least 50% of these individuals (11,472 individuals - 1912 HHs), if evicted, would have been eligible for post-eviction assistance (relocation support) emergency shelter kits (ESK), and WASH facilities. Below are rough estimates of the costs if these HHs were evicted in one instance versus if preventive engagements took place. Based on past trends and analyses, vulnerable households would experience multiple evictions during their displacement.

<b>COSTS OF POST-EVICTION SUPPORT (IF 1912 HHs WERE EVICTED IN ONE INSTANCE)</b>					
<b>Interventions</b>	<b>Unit</b>	<b>No. of units</b>	<b>Unit cost (USD)</b>	<b>Time frame</b>	<b>Total</b>
Water trucking (for three months for 1912 HHs)	Cost of water trucking per month per HH*	1033	55	3 months	85,179.60
Water bladders	Bladders	2	600		1,200
Printing of vouchers	Voucher/per day*	270	1.5		405
Emergency Latrines (1 latrine is to 5 HHs)	Emergency latrines	382	250	One-time payment	95,600
Emergency Shelters	Emergency shelter	1912	213		407,256
Post-eviction cash assistance	Cash	1912	300		573,600
Emergency hygiene kits	Kits	1912	24		45,888
Hygiene promoters (for 1912 HHs for three months)	Hygiene promoters	23	80	3 months	5,520
Information session (1 session =50 participants)	Session	230	250	6 months	57,500
<b>Total costs of post-eviction support</b>	<b>1,272,149 USD (665 USD per HH if evicted in one instance)</b>				

\* Assume 15l/per person/per day. For 1912HHs: 1912\*6 =11472 pax; 11472\*15lites \*90 days/10000)\*55.

\* Vouchers are community based and each day HHs need a maximum of 3 water trucks which means (3 vouchers for 90 days = 270 trucks).

<b>COSTS OF EVICTION PREVENTION FOR 1912 HHs</b>					
<b>Interventions</b>	<b>Unit</b>	<b>No. of units</b>	<b>Unit cost (USD)</b>	<b>Time frame</b>	<b>Total</b>
Information session (1 session =50 participants)	Session/ campaign	230	250	6 months	57,500
Information sessions - bulk SMS messaging	People	5000	0.25		1,250
Design, production and distribution of IEC materials	Lump sum	4	1500		6,000
Eviction monitors to support eviction taskforce	People	4	500		12,000
Facilitating security of tenure through documentation and technical support*	Documents	1000	12		12000
Facilitating integrated tailored HLP training for key stakeholders	Trainings	25	2300		57,500
Social cohesion and dispute resolution (community dialogues)	Sessions	15	550		8,250
<b>Total costs of eviction prevention</b>	<b>154,500 USD (80 USD per HH)</b>				
<b>Costs savings (per HH) = Cost of post-eviction support - Costs of eviction prevention/ number of HHs</b>	<b>1,272,149 USD – 154,500 USD = 1,129,649 USD 585 USD per HH</b>				

\* Assume that 1000 HHs of the 1912 HHs acquire long-term tenure and are in need of land tenure documents such as certificates of title.

8.

## CONCLUSIONS

- **Forced displacement, rapid urbanisation, and evictions have become increasingly intertwined:** The Baidoa case study demonstrates the link between rapid urbanisation, rising land values, and cyclical displacement through forced evictions. The same urbanisation process caused by the displacement of individuals from rural areas has given rise to complex political economy dynamics that contribute to further secondary and tertiary displacement through forced evictions in the urban context.
  
- **Land tenure security is central to the sustainability of durable solutions:** Land tenure security is at the heart of durable solutions programming, specifically for displaced persons whose intentions and choices to return home are premised on access to land.<sup>216</sup> The vast number of IDP sites and their scattered nature around urban municipalities and peri-urban areas makes it difficult for humanitarian actors to have a comprehensive and coordinated response to eviction events.<sup>217</sup> This situation underscores the importance of focusing on preventive aspects of eviction programming to move forward on achieving durable solutions for DACs. Any gains made by durable solutions interventions are undermined by the upheaval that evictions entail on the lives of beneficiaries (for example, destruction of household assets and disruption from protective environments). Hence, enhancing land tenure security is central to the sustainability of (re)integration efforts in Somalia. This situation should inform the investments of all those in pursuit of durable solutions, including local authorities, donors, humanitarian, development, and peacebuilding actors. The humanitarian community has embraced a centrality of protection approach in responding to humanitarian situations in Somalia. Now there is a need to incorporate the enhancement of land tenure security for DACs as a strategic objective of durable solutions programming.
  
- **Implications for the humanitarian–development–peacebuilding nexus:** Land is a crucial area for stabilization, peacebuilding, protection, and durable solutions. HLP interventions must fundamentally operationalise the humanitarian-development-peacebuilding (triple) nexus, if they are to be effective in addressing forced evictions. At the centre of this nexus is the need to address secondary and tertiary displacement from forced evictions. The arrival, settlement, and integration of displaced people into urban areas, and the duration of the agreements required by humanitarian organisations to intervene to assist IDP settlements, have direct links to and relevance for the triple nexus. This study highlights how the unplanned and spontaneous settlement of displaced people has led to accelerated urbanisation rates in Baidoa and the clan-based configuration of IDP settlements. Development agencies, particularly those specialising in urban resilience and urban planning, need to work together with local government authorities and humanitarian organisations to craft



**Caption:** IDP woman at a community meeting at settlement in Somalia.

longer-term strategies that incorporate tenure security for displaced people in the urban agenda. These strategies need to include and document clear benefits for landowners. Such approaches should also underscore the penalties for those who extract further resources—beyond the terms of the agreement—from displaced people. This situation requires that humanitarian organisations and government agencies interact closely with the development sector from the onset of responding to new arrivals to planning sites for IDP relocation. These actors need to work collaboratively to identify suitable resettlement locations and integrate these into longer-term urban planning processes. In this regard, written agreements between landowners and displaced people should be registered with the relevant institutions for the sustainable integration of formal tenure arrangements into land management and development processes and related decision-making.

- **Eviction prevention as a strategic approach:** Eviction prevention efforts actively avert any disruption to the ongoing recovery and integration processes of displaced people while at the same time safeguarding investments already made by humanitarian and development agencies in this process. Eviction prevention also presents a strategic advantage for value for money. Preventive engagements avert additional immediate humanitarian costs and protect investments already made. These efforts further substantiate the necessity for a humanitarian-development-peacebuilding approach from all those engaged in responding to displacement. For humanitarian funding that addresses immediate needs to have any longer-term relevance and impact, the guarantee of a longer-term financial commitment to secure formalised written land tenure agreements is imperative. Such a rationale will anchor displaced people to the urban context through improved tenure security. In turn, this reduces the risks posed by cyclical displacement due to forced evictions. The study uses Baidoa as a valuable case study that demonstrates how coordinated multi-stakeholder prevention efforts have yielded more effective and sustainable results for enhancing security of tenure for DACs. Measures to strengthen the eviction prevention architecture and subsequently prevent evictions, and ensuring tenancy agreements are not breached, are outlined in the recommendations.

- **Inclusive and government-led land allocation processes as an effective strategy for securing land tenure:** In conclusion, this study finds that inclusive and government-led land allocation processes for IDPs in Baidoa are the most effective ways of securing tenure, preventing abuse, avoiding disputes, and facilitating the attainment of durable solutions by DACs. To strengthen land acquisition and allocation processes, the mobilisation of key clan, customary, government, religious, and civil society institutions to identify and obtain appropriate land for the formation of formal settlements is imperative. Strengthening the gender aspects of land tenure is a crucial aspect to consider, especially with respect to marriage, divorce, and inheritance. Furthermore, HLP actors should re-orient their strategy in Baidoa to support IDPs who are pooling money together to purchase plots of land to avoid forced evictions and achieve local integration. In many instances, however, the Baidoa Municipality is not familiar with these transactions. These situations result in a rise of HLP disputes such as double selling by the previous landowners; boundary disputes; and ownership disputes among the purchasers (IDPs). Importantly, there is a need to ensure that the site plans for these plots of land are linked with wider urban planning processes in Baidoa (i.e. Township Plan and the City Extension Strategy) to enable better connection to services and infrastructure. Increased sensitisation and awareness of DAC communities on general land procedures is therefore essential to guarantee that IDPs make informed decisions, and actively seek support from the Baidoa Municipality before purchasing these plots of land to avoid risks associated with the sprawling of largely unplanned, spontaneous, and chaotic settlements.

## 9.

## RECOMMENDATIONS

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### **Advocate for the development of a multi-stakeholder implementation strategy for land laws and policies**

- In 2019, the South West State enacted an Urban Land Bill, which was endorsed at the Ministerial level though; it has not yet been assented to. Currently, the Bill is awaiting to be passed through a parliamentary process to become law. However, before the approval by the SWS assembly takes place, there is a need to harmonise the clause on the adequate notice period with the National Eviction Guidelines. Notably, adequate notice within the Bill is described as a period of 30 days, taking into consideration various extenuating circumstances. Within the National Eviction Guidelines, an adequate notice period is 60 days.
- Once the Urban Land Bill assents to law, concrete steps should be taken to develop a timely costed and realistic roadmap for the implementation and subsequent monitoring of the law. In turn, this creates space for resource mobilisation, prioritisation, and sequencing of investments.

### **Develop a robust multi-stakeholder consultative eviction prevention operational strategy**

- The Bay Eviction Task Force should develop a multi-stakeholder eviction preventions operational strategy, which can be endorsed by humanitarian, development, and peace-building actors operating in Baidoa. Such a strategy should outline in detail practical actions on how the Task Force works to achieve adequate notice, alternative land or accommodation, aversion of eviction threats, and extension of lease agreements. The eviction prevention strategy should be anchored on a three-pronged approach involving: eviction monitoring and analysis to inform joint planning and response; government-led and localised initiatives aimed at preventing forced evictions and facilitating dignified relocations; and institutionalisation of eviction prevention and response within the Baidoa Municipality. The strategy should also spell out the roles and responsibilities of the different actors involved in HLP interventions to promote a coordinated and integrated approach.
- Strengthen support for Baidoa Municipality to establish dedicated capacities to coordinate eviction prevention and response efforts. HLP actors should reinforce technical and material support offered to the Municipality and South West Commission of Refugees and IDPs (SWCRI), with investment in a long-term capacity development strategy. Such an approach will ensure that the Baidoa Municipality and the SWCRI establish dedicated capacities to coordinate eviction prevention and response efforts.

- Pilot the creation of community eviction insurance schemes within settlements at risk of evictions. As there is a culture of community saving in Baidoa, the establishment of community insurance schemes can provide covers for families facing imminent eviction. Such a system could operate like a revolving loan scheme. Each family unit could contribute USD 0.20 per month to the fund. For a displacement site of 100 families, this would provide an accrual rate of 20 USD per month. Funds would be held communally for disbursement to families who remain vulnerable against evictions. Once used, families would then have an extended period to repay the fund with no threat of eviction. Such a scheme could be extended to strengthen resilience against other shocks such as medical or funeral expenses.

#### **Facilitate the formalisation of land tenure arrangements for IDP settlements:**

- The Baidoa Municipality, the South West Commission of Refugees and IDPs, and NRC should build onto the past success on securing land tenure to actively advocate for the provision of formal (written) land tenure arrangements and legal documentation for the settlements still relying on verbal agreements. These communities comprise a large number of those at extreme risk or high risk of forced evictions. This component should be central to the evictions prevention strategy aforementioned, as a step towards responding to forced evictions through localised solution initiatives.
- Incorporate registration of written agreements between landowners and displaced people within the existing systems used by Baidoa Municipality. This includes integration into institutions addressing land management and development processes and related decision-making.
- Advocate for subsidised fees required for land tenure documentation for displaced people. The costs associated with acquiring land tenure documentation present several obstacles for displaced people. Hence, a majority of DACs are unable to obtain them, and the government cannot issue these documents – if the requisite fees are not paid.
- Incorporate visual and security elements into land tenure documentation to minimise fraud and accommodate the illiterate. HLP actors should find ways to incorporate pro-poor documentation that is appropriate for the illiterate, including using photos of the landowner, lease, and housing structures to document the elements of the tenancy agreement.

#### **Facilitate the establishment of an IDP-landowner platform and charter**

- The Baidoa Municipality and South West Commission of Refugees and IDPs should develop a set of best practice criteria based on the National Eviction Guidelines for landowners to adhere to. Such criteria would inform landowners of their responsibilities and duties as landlords for IDPs. To promote buy-in and ownership by landowners, the Baidoa Municipality and the South West Commission of Refugees and IDPs



**Caption:** Portrait of woman in IDP settlement in Somalia.

could facilitate community engagement sessions with landowners to agree on the criteria. Once agreed upon, they would be enshrined in an IDP-landowner charter that landowners are required to sign if they wish to give land to IDPs.

- Increased communications between landowners and DACs could help both parties understand the issues, needs, and dynamics that affect each of them. The organisation of regular HLP forums improves dialogue between IDPs and landowners on a wide range of HLP issues. The inclusion of the Bay Eviction Task Force members, SWS line ministries, civil society, INGOs, durable solutions working groups, development, and peacebuilding actors in such forums would aid transparency, accountability, and governance, as well as, provide a valuable connection between the different stakeholders. Such forums can organically evolve into community-based associations depending upon the interests and needs of those involved. These forums can also discuss and formulate a code of practice among landowners, awareness raising, and exchange of best practices for landowners renting to IDPs.
- The Baidoa Municipality, in partnership with NRC, should organise specialised trainings for landowners in Baidoa. These trainings would aim to: raise awareness on the landowners' HLP rights and those of displaced persons; increase knowledge on the relevant HLP policy, legal, and regulatory frameworks; and emphasise the importance of formal tenure documentation and legal procedures. These trainings would also reinforce the importance of the proposed landowner charter aforementioned.

#### **Identify ways to provide incentives for landowners to uphold their contractual obligations (agreements) with IDP communities**

- Interventions by humanitarian and development organisations increasingly require long-term leases of land (five to fifteen years). If not incorporating a fee payment, these long-term leases remove the land from the asset base of the owner for a significant period without financial returns from the land—apart from an anticipated rise in value in the future. Incentives for landowners are often not included programming, policy, or advocacy but should be explored in more detail. Additionally, a comprehensive understanding of the impact of infrastructure investment on land value, and the

extent to which landowners will be willing to give up land in exchange for infrastructure investment, could be obtained through land market assessments.

#### **Ensure that comprehensive due diligence and conflict analyses inform DAC resettlement initiatives**

- Inclusive and thorough due diligence and conflict-sensitive analyses should inform DAC resettlement initiatives to guarantee that such interventions do not create or exacerbate existing societal cleavages. The clan configuration of IDP settlements in Baidoa, for example, is a significant factor that influences how IDPs settle thus needs further consideration. In this instance, a majority of IDPs from the Sagal sub-clans were not interested in relocating to the Barwaaqo settlement in Eastern Baidoa. With this regard, there has been some advocacy around developing a similar resettlement site in the ADC zone. The Baidoa Municipality and the SWCRI, with support from HLP actors, should undertake comprehensive due diligence and conflict analyses to inform the formal allotment of this land. In turn, an official allotment letter from the Baidoa local authorities would support resource mobilisation efforts for development and investment of this site.

## KEY CONSIDERATIONS FOR EVICTION PROGRAMMING IN BAIDOA

- **Develop and implement integrated and contextualised due diligence guidelines for Somalia:** Current due diligence procedures are not uniform across Somalia.<sup>218</sup> Where aspects of due diligence are conducted, they tend to be context specific, and adhoc in nature. To support more effective due diligence processes across Somalia, the HLP AoR, the Shelter, Protection, and CCCM Clusters should update the due diligence guide<sup>219</sup> aimed at ensuring HLP rights, assets and investments are protected, and that parties have reduced exposure to risk and harm. Such guidelines would aim to ensure HLP and tenure rights are protected by all actors involved in durable solutions programmes in the best possible manner, and that "Do No Harm" principles are respected.
- **Undertake comprehensive Eviction Impact Assessments (EvIA) to bolster housing rights and the achievement of durable solutions for DACs:** An EvIA is a quantitative, human rights-based tool which is used to quantify the losses, costs and damages incurred by those affected by violations of forced evictions, dispossession, destruction and privatisation of resources.<sup>220</sup> The costs of displacement and forced evictions and the losses they cause, both material and otherwise, can never be fully quantified or described. That said, however, EvIAs use a quantitative methodology to strengthen the bargaining position of displaced communities to prevent eviction and procure a more equitable compensation package that includes better relocation terms. Data alone cannot express the emotional toll of forced displacement nor the physical impoverishment it often causes, but it improves a community's bargaining position with state and private entities involved in responding to its needs.<sup>221</sup>
- **Continue raising awareness on HLP through approaches that target the illiterate who are most likely to utilise informal tenure arrangements (verbal agreements), and landowners jointly:** Conduct information campaigns, including through various forms of media such as radio, television, drama performances and billboards to educate the public on HLP issues.
- **Continue strengthening the capacity of local actors on HLP:** There is a dearth of local actors working on HLP issues, particularly in Baidoa. NRC should seek to foster and grow long-term partnerships with local actors in Baidoa to strengthen their capacity and expertise in HLP. This includes through provision of material and technical support, consistent mentoring and coaching as opposed to one-off trainings, and the development and dissemination of educational materials on HLP.
- **Consider adapting existing approaches and good practices on eviction response from other post-conflict contexts:** For example, the Iraq evictions response guidelines developed by NRC as a reference tool for partners to the Somalia context.
- **Further investigate and document the relationship between camp splitting and evictions:** During eviction response interventions, document case studies of why camps are splitting to better understand this phenomenon and what can be done to address it. The Bay Eviction Task Force as a multi-stakeholder forum can examine these case studies and jointly identify practical solutions.
- **Continue strengthening community-based structures on alternative dispute resolution approaches:** Due to the rise in land disputes, there is a need to strengthen the capacities of based structures to increase their knowledge and skills in dispute resolution. These activities are geared toward promoting and fostering peaceful co-existence in local communities.
- **Integrate HLP support with livelihoods interventions:** Integrated and layered approaches will empower DACs to afford Housing, Land, and Property after humanitarian aid assistance ceases – this is a more sustainable approach to HLP specific interventions in the long-term. Having a plot and a house is not enough and there is a need to secure sustainable livelihoods.

## GLOSSARY OF TERMS\*

- **Breach of contract:** when the landlord or the tenant fails to uphold their part of an agreement. While this also applies to verbal agreements, a breach of contract is more easily verified if the agreement has been documented. If a tenant is in breach of contract, the landlord may have the legal right to evict the tenant.
- **Cadastre / cadastral record:** is a register of property showing the extent, value, and ownership of land.
- **Certificate of title:** is an official state or municipal issued document that identifies the owner of any HLP asset or investment. In principle a certificate of title cannot be overturned and all binding unless nullified by a court of competent jurisdiction in a direct proceeding for cancellation of title. Every person dealing with registered land may safely rely on the correctness of the certificate of title and need not inquire further as to the ownership of the property. When a certificate of title is clean and free from any encumbrance, potential land users, purchasers, etc. have every right to rely on such a certificate.
- **Customary land tenure systems:** regulate people's right to enjoy the use of land arising from customary practice, rather than through written or codified law.
- **Departures under duress:** also referred to as "responsive moves" in the literature. These are cases where tenants / occupants choose to leave their current lodgings after a threat of eviction has been made – either because they no longer feel welcome, or no longer feel safe, even if there is no basis for lawful eviction. It is important to distinguish departures driven by an eviction threat and a departure motivated by another interest (see voluntary departures below). While departures under duress should be treated the same way as a forced eviction 'voluntary departures' should not be eligible for assistance under an eviction response project.
- **Displacement-affected communities:** entails all displaced populations including refugee-returnees and internally displaced persons (IDPs); host communities and populations; and communities receiving refugee-returnees and IDPs in areas of return, local integration or settlement elsewhere in the country.
- **Due diligence process:** is an investigative process, one which aims to prevent harm. It entails research, analysis, and must be completed prior to considering the use of land for any purposes including establishment of settlements, and any infrastructure development or construction. Aside from a broad understanding of a project, a due diligence exercise is the next most important aspect of any land transaction. This process has the potential of not only affecting the beneficiaries but also determining the feasibility of the planned intervention itself.
- **Durable solution:** a durable solution is achieved when the displaced no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement. It can be achieved through return, local integration, or resettlement.
- **Encroachment:** is the illegal occupation or use of a portion of land owned by someone else.
- **Eviction notice:** refers to the notice given in writing by or on behalf of a landlord or competent authority requiring the occupiers or tenants of the premises to which the notice relates to vacate and surrender vacant possession of the premises to which the notice relates within such time as specified in the notice.
- **Eviction order:** an order of a court of competent jurisdiction given in favour of a landlord or competent authority authorising the landlord or competent authority to recover vacant possession of the land or premises to which the order relates by physical removal and eviction of the individuals, groups of persons or communities in occupation thereof in contravention of an eviction notice duly given to them in accordance with the Somalia National Eviction Guidelines.
- **Forced Eviction:** the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.

- **Illegal occupants or squatters:** the definition of squatter (a word that carries a negative connotation) varies from country to country. Usually it is taken to mean someone who occupies a vacant piece of land (either private or public) or takes possession of unoccupied premises (either private or public) without a legal right to do so.
- **Informal Eviction/Unlawful Eviction:** informal threats of eviction include using verbal warnings/threats of eviction, extralegal coercion, using lawyers or security services to harass tenants / occupants to give the illusion of legality, locking tenants outside of their homes, or engaging in acts of physical removal of persons or property, among others. While NRC does not want to legitimate unlawful processes, we cannot ignore the “on the ground reality” in which many evictions do take place outside of the formal procedures and should engage with them accordingly. All informal evictions are forced evictions.
- **Internally displaced persons:** means persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised border of the Federal Republic of Somalia.
- **IDP occupancy certificate:** a document issued by a shelter actor to a beneficiary of shelter assistance. It is used to prove that an IDP is a resident of a particular settlement and lives in the shelter indicated on the certificate. It is premised on a parent land tenure document.
- **Land administration:** is the way in which the rules of land tenure are applied and made operational. It usually includes the administration of land rights, land use regulations, and land valuation and taxation.
- **Land grabbing:** occurs when someone uses force to seize land or uses discriminatory laws to arbitrarily acquire land as abandoned property.
- **Land management:** refers to allocation, use and development of land and land resources (e.g. how to use land efficiently for producing food, providing shelter or other land related livelihoods).
- **Land registration:** is the process of recording rights and other interests in land in some form of public register. The procedures used and legal effects can differ greatly from country to country. Registration can be parcel-oriented sometimes referred to as title registration or based on the holder’s or transferor’s documents sometime referred to as deed registration).
- **Land rights:** do not just pertain to the right of ownership; they also refer to access, use, possession and occupation of land, and security of such use, possession or tenure.
- **Land tenure:** is the way in which individuals and groups relate to land and its resources. Land tenure refers to the rights, rules, authorities and institutions that govern access to and control over land and related resources. In other words, land tenure determines who can use what resource of the land, for how long, and under what conditions.
- **Land title:** is the right of ownership of real property.
- **Lawful Eviction:** a legal process initiated by a landlord or landowner through the formal judicial process to remove a tenant / land occupant from their current lodgings. Landowners can also be lawfully evicted if the government launches an official process to expropriate land for “public interest.” Without adequate representation, a lawful eviction can still be a forced eviction.
- **Legal pluralism:** refers to the co-existence of parallel rules to address legal issues, and to the involvement of different authorities considered legitimate to decide on legal matters. The same issues may be regulated under different rules and decided by different actors.
- **Occupant:** an occupant may be living in a building or on the land that does not belong to them, with or without the landowner’s permission. Occupations can be established by local governments which allocate lands for IDPs or refugees, through legal or extralegal processes. Occupations can also happen informally and spontaneously. Occupations can take place on public land (state-owned), private land, or on commonly-held land.
- **Refugee-Returnees:** former Somali refugees who voluntarily go back to their original homes or areas of habitual residence or any part of Somalia to live.

- **Reintegration:** the re-entry of former refugee-returnees and IDPs back into the social, economic, cultural and political aspects of their original community or other regions of their choice, whereby they have access to the same rights, systems and services as the people among whom they live, in peaceful coexistence.
- **Security of tenure:** refers to the certainty that a person's rights to Housing, Land, and Property will be protected. According to ICESCR General Comment 4, security of tenure "guarantees legal protection against forced evictions, harassment and other threats."
- **Threat of eviction:** threats of eviction can vary widely – between countries, regions, neighborhoods, and even between specific cases depending on the relationship between the land owner and the occupant. Threats of eviction can be written, or verbal, informal or formal (lawful), peaceful or violent. The type of eviction threat should influence the way the response is designed.
- **Unlawful displacement:** Displacement that contravenes either national law or international law and standards, including forced eviction consistent with the prohibited displacement categories listed in Article 4(4) of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).

\* *Glossary of terms includes definitions from: the National Eviction Guidelines; IASC framework; NRC SOPs and guiding documents; Eviction information notes from the Global HLP AoR; and Somalia National Policy on Refugee-returnees and IDPs.*

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- 123 Interview, November 25, 2020.
- 124 Interview, November 25, 2020.
- 125 Interview, November 15, 2020.
- 126 Distress sales occur when the seller needs to sell an asset urgently, often to pay debts or medical expenses or for other emergencies. A short sale is a form of distressed sale in which the landowner attempts to sell their property even though the current market value is below the amount owed to their lender.
- 127 Interview, November 23, 2020.
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- 131 Interview, December 1, 2020.
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- 135 Interview, November 23, 2020.
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- 139 Interview, December 05, 2020.
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- 141 Interview notes, November 23, 2020.
- 142 Interview, December 02, 2020.
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- 160 Interview, November 23, 2020.

- 161 Interview, November 25, 2020.
- 162 Interview, November 23, 2020.
- 163 Interview, November 12, 2020.
- 164 Interview, December 07, 2020.
- 165 Interview, December 05, 2020.
- 166 Interview, December 1, 2020.
- 167 Interview, November 23, 2020.
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- 196 Ibid.
- 197 Ibid.
- 198 In 2020 for example, over 3500 land tenure documents were provided to IDPs, including through long-term lease agreements (between five and eight years).
- 199 The construction of office units for the Baidoa Municipality was funded under the Dhulka Nabaada (The Land of Peace) implemented between January 2019 and January 2021. The project aimed to support four Federal Member States with land reform initiatives and integration of land dispute resolution mechanisms.
- 200 NRC, through its durable solution programmes such as the FCDO-funded Danwadaag Durable Solutions programme, and EU-funded EIDACS has increased community-level capacity to resolve HLP conflicts. The Dhulka Nabada programme also funded this component. To foster social cohesion, promote co-existence, and strengthen local dispute resolution capacities in target communities, NRC has reactivated existing local committees to expand and consolidate dispute resolution efforts and other community-based co-existence processes. At the same time, NRC has facilitated the establishment of new committees when the need arises. Trainings on collaborative dispute resolution (CDR) have significantly increased community-level capacity to resolve HLP conflicts. The CDR trainings covered approaches, procedures, and skills for resolving HLP and other forms of civil disputes and are attended by community leaders, including elders and customary leaders.
- 201 Similarly, in Kismayo, NRC has a formal memorandum of understanding with the Jubaland Land Authority to subsidise the fees for certificates of title for DACs. Each metre squared costs 0.5 USD.
- 202 According to the Interim Protocol on Housing Land Distribution for Housing, where public land is not available for distribution in any particular district, eligible IDPs and refugee-returnees may be referred for resettlement in neighbouring regions in close consultation with competent authorities, and alternative settlements (having the capacity for absorption) shall be secured with the approval of the host municipality. Conversely, for community and private land, the clan leader or landowner writes a letter that is the basis for drafting a communal agreement, facilitated by HLP actor like NRC.
- 203 Interview, December 02, 2020.
- 204 Interview, December 05, 2020.
- 205 Interview, December 05, 2020.
- 206 Interview, November 25, 2020.
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- 208 NRC. (2015a).
- 209 IOM is leading the Danwadaag Consortium in which NRC, Concern Worldwide, and the Regional Durable Solutions Secretariat are implementing partners.
- 210 IOM. (2019).
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- 212 The former Governor for Bay region, Baidoa District Commissioner and Director of Durable Solutions and Urban Resilience (former Mayor), and current Baidoa Mayor have indicated interest to allocate this land. In 2018, a joint mission by local authorities and humanitarian agencies visited the site and earmarked the land for the reintegration of DACs.

- 213 Interview, December 01, 2020.
- 214 Legal standards include: substantive justification for the eviction; due process including sufficient notice period and discussions with affected communities; alternative accommodation for populations at risk of eviction; discussions on alternatives by the key stakeholders; and non-discrimination during eviction to ensure the evictions are not based on discriminatory practice against a particular group.
- 215 NRC Eviction Information Portal.
- 216 Durable Solutions Working Group. (2020). Durable Solutions in Somalia. Advocacy brief.
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- 218 HLP AoR, Shelter Cluster, Protection Cluster & CCCM cluster (Draft). Housing, Land, and Property in Somalia Due Diligence Guide.
- 219 In 2013, the Somalia Shelter Cluster developed a Due Diligence checklist on land rights and shelter in 2013. The checklist aims to assist shelter actors to ensure that they respect existing rights over plots of land on which they intend to construct shelter and minimise the risk that may contribute to land disputes. It is also intended to help assisting managers and implementers of shelter programmes in field locations to identify land rights in contexts where information is difficult to obtain.
- 220 IDMC, IIED & NRC. (2015). Home sweet home: Housing practices and tools that support durable solutions for urban IDPs. <https://www.internal-displacement.org/sites/default/files/publications/documents/20150325-global-home-sweet-home-en-full-report.pdf>
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**Caption:** Photo of woman outside her shelter within IDP settlement in Baidoa.

# ANNEXES

## ANNEX 1: COSTS OF SECURING LAND TENURE DOCUMENTS FOR DISPLACED AND NON-DISPLACED POPULATIONS IN BAIDOA

Costs incurred for securing land tenure documents for non-displaced Somali citizens in Baidoa		Costs for securing land tenure documents for IDP households in Baidoa		
1	<b>Sourcing real estate agents/brokers</b>	5% of the land value. Land (20 by 20 meters) is 20,000 USD if it is adjacent to the road while land close to where IDPs are purchasing plots in ADC zone is between 5000 to 10,000 USD. 5% of land value is between 250-500 USD	Letter of request from Municipality or organisation. For public land, the Municipality issues a written offer. The SWCRI can also initiate a request for land or the availability of land. <sup>202</sup>	No cost
2	<b>Routine land availability visits</b>	N/A	Routine land availability visits/ go see visits	Transport provided by organisation and local authorities
3	<b>Negotiations and witness verification</b>	Between 20 to 50 USD depending on the land and the number of days the witnesses work with you	Assessments/Verification/ offer letter/ due diligence processes	Facilitated by organisations and local authorities
4	<b>Public notary/ documentation/clerical/ verification</b>	150 USD to 200 USD depending on the size and location of the land and the number of days taken by the witnesses	Public notary/ documentation/ clerical/ verification	60 USD for communal tenure i.e. more than 100 households could benefit. A public notary (private sector actor) authenticates the certificate of title and provides a feature (a seal) that prevents duplicates from being made
5	<b>Court letter to verify public notary documents and Witnesses of the land owners/Inheritance</b>	50 to 100 USD depending on the case	Court letter in the event local authorities require additional legal provision to limit the right to transfer/sale	8 USD per HH
6	<b>Land registration, documentation and issuance of certificate of title</b>	For land measuring 20 by 20 meters, the payment is 240 USD	Municipality land registration and issuance of certificate of titles	12 USD per HH

\* In partnership with the Baidoa Municipality and SWCRI, NRC has facilitated the acquisition of land tenure documents at a subsidised fee for DACs. The costs are based on an informal arrangement with Baidoa local authorities however, once the Urban Land Bill assents to law, a more formal agreement would be put in place.

## ANNEX 2:

### CHAPTER EIGHT OF THE SOUTH WEST STATE URBAN LAND BILL: EVICTIONS AND LAND DISPUTE MANAGEMENT

#### Article 60: Illegal and Forced Eviction

- 1) Illegal eviction is any forceful eviction which aims to permanently or temporarily remove against their will any individual, household and/or communities from the homes and or land they occupy, without the provision of, and access to, appropriate forms of legal recourse, and without adherence to legally established procedures in this law.
- 2) Illegal evictions are hereby prohibited and deemed a contravention of this law.
- 3) Owner of land and home shall be protected from any form of eviction.

#### Article 61: Protection of IDPs and the Needy People

- 1) Internally Displaced People shall be treated as equal citizens and the local government has the duty to allocate habitable spaces during their displacement;
- 2) Any land allocated collectively for the residence of internally displaced people shall be considered as temporary and shall only be considered permanent through the land allocation procedure prescribed under Article 48 of this law
- 3) Return, relocation, reintegration and resettlement of internally displaced people shall be handled with care and due diligence;
- 4) Internally Displaced People shall not be forcefully returned or relocated unless
  - a. It is in their best interest;
  - b. Interest of the wider population endangered; or
  - c. Public safety or order affected and thus approved by the local council in a decree.

#### Article 62: Procedure for Lawful Evictions

- 1) Eviction of Internally Displaced People or needy people occupying unauthorised land shall only be justifiable, provided that following rules of procedure applied:
  - a. Existence of substantive justification to be proved by a proposed urban plan or critical development project;
  - b. Adequate notice period of at least 30 days is given, taking into consideration various extenuating circumstances
  - c. Meaningful and inclusive consultation made with affected people on the available alternatives places to relocate them
  - d. The due process provided by this this and other laws shall be observed;
  - e. During eviction and transition, affected people should be accessed to livelihood support.
  - f. The process or the aim should be non-discriminatory and not focused on certain group or clan.
- 2) Affected people have the right to appeal to the Regional Court.

#### Article 63: Land Dispute Resolution

- 1) At the first occurrence of a land dispute, involved parties may take their case before an administrative tribunal to resolve the dispute and issue an administrative decision. Any party who is not satisfied with the decision of the Tribunal has the right to appeal to the Regional Court of Appeal within one month from the decision.
- 2) The cost of appealing shall be covered by the person disputing the decision of the tribunal, and the fee for handling land disputes shall be obtained by that court.

- 3) Before appearing at an administrative tribunal, parties may choose to have their case heard through customary methods. The administrative tribunal shall consider any decision or fact-finding conducted under the customary method of dispute resolution. Traditional adjudicators may be asked to appear before the Tribunal to participate in the hearing. Parties who refuse to participate in the customary method may argue their case a new in front of the Administrative body.
- 4) Parties appearing before the Tribunal can either have legal representation or be self-represented. If the members of the tribunal feel that any individual or group is at a disadvantage by not having legal representation, they may adjourn and allow for the party in question to seek legal aid provisions.
- 5) The tribunal shall consist of qualified members on land issues, and shall be appointed from the following authorities:
  - i. One independent expert suggested by Ministry of Public Works Chairman;
  - ii. One reputable elder suggested by the Non-State Actors Member;
  - iii. One person from the Local Government Member;
  - iv. One person from the Ministry of Interior Affairs Member;
  - v. One person from the Ministry of Agriculture Member;
  - vi. One person from the Ministry of Religious Affairs Member;
  - vii. One person from the Ministry of Justice Member.
- 6) The members of the tribunal indicated in sub-article 1 of this article shall be suggested or appointed by the respective authorities, after they receive request for the appointment from the Ministry of Interior Affairs.
- 7) Each authority shall submit the name of the person to be member in that tribunal to the Ministry of Interior Affairs. The Minister, to make the tribunal operational, shall issue the list of the names of the tribunal with a Ministerial decree.
- 8) The tenure for the tribunal members shall be two years and may be renewable through the same appointment procedure.
- 9) The local government of the town shall allocate a premise to the tribunal and operation costs, where it can perform its duties.
- 10) The Minister of Interior Affairs shall issue a regulation on the:
  - i. Incentive of the tribunal members;
  - ii. Procedural work of the tribunal;
  - iii. Enforcement of the tribunal decisions; and
  - iv. All other operational duties of the tribunal.
- 11) The executive committee of the local government shall issue fee rates to be paid by the applicants for filing a case;
- 12) For districts where all the agencies in the tribunal are not available, the regulation from the Ministry of Interior shall indicate the number and members of the tribunal.

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#### **Article 64: Mediation and Adjudication of the Tribunal**

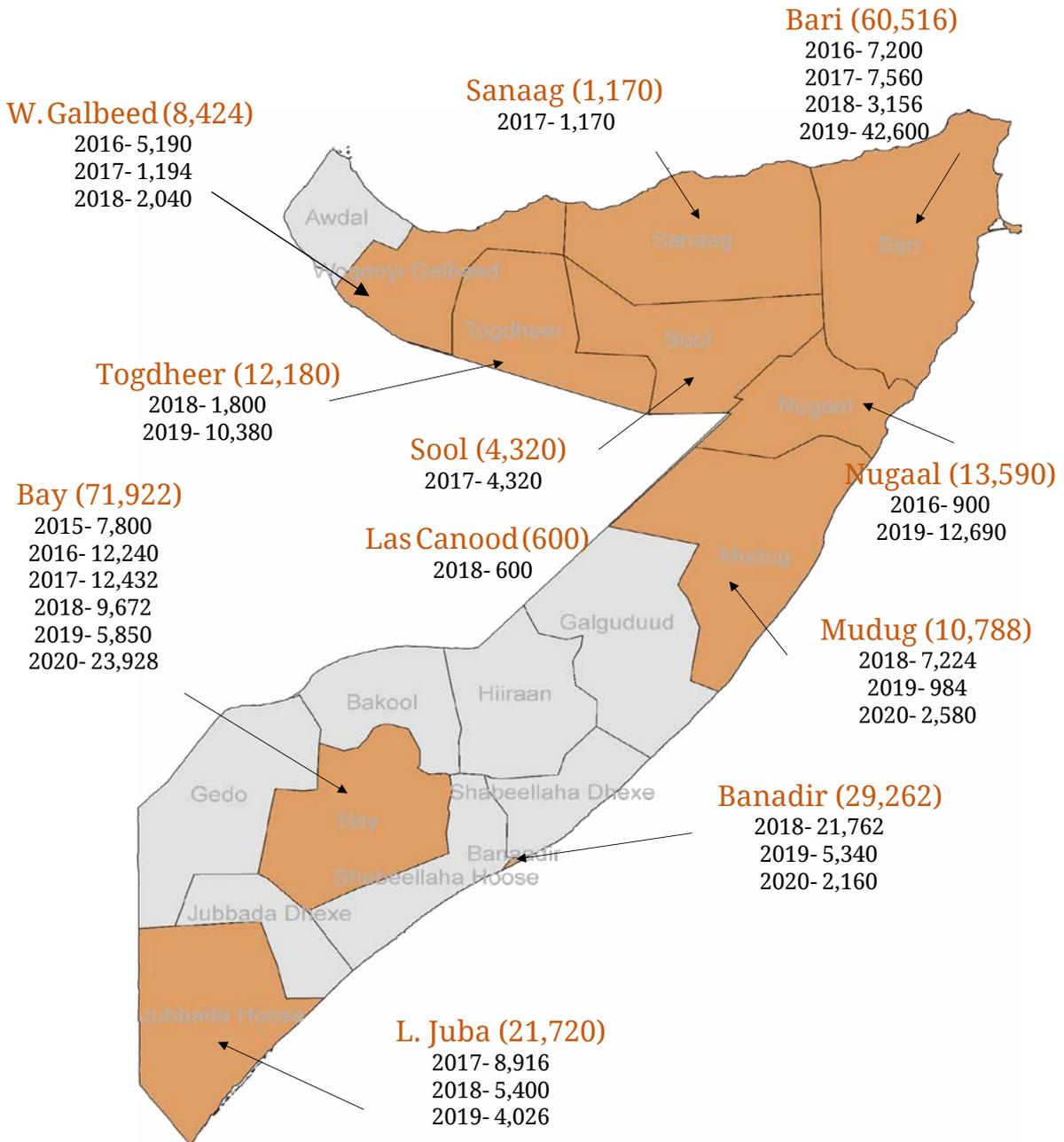
The tribunal may resort to mediation between the disputing parties or may refer relatives or trusted elders of the parties to mediate, and in case no settlement reached, the tribunal will proceed to adjudication and make an administrative decision.

**ANNEX 3:**  
**TOTAL NUMBER OF INDIVIDUALS SUPPORTED TO**  
**ACHIEVE LAND TENURE SECURITY IN SOMALIA**

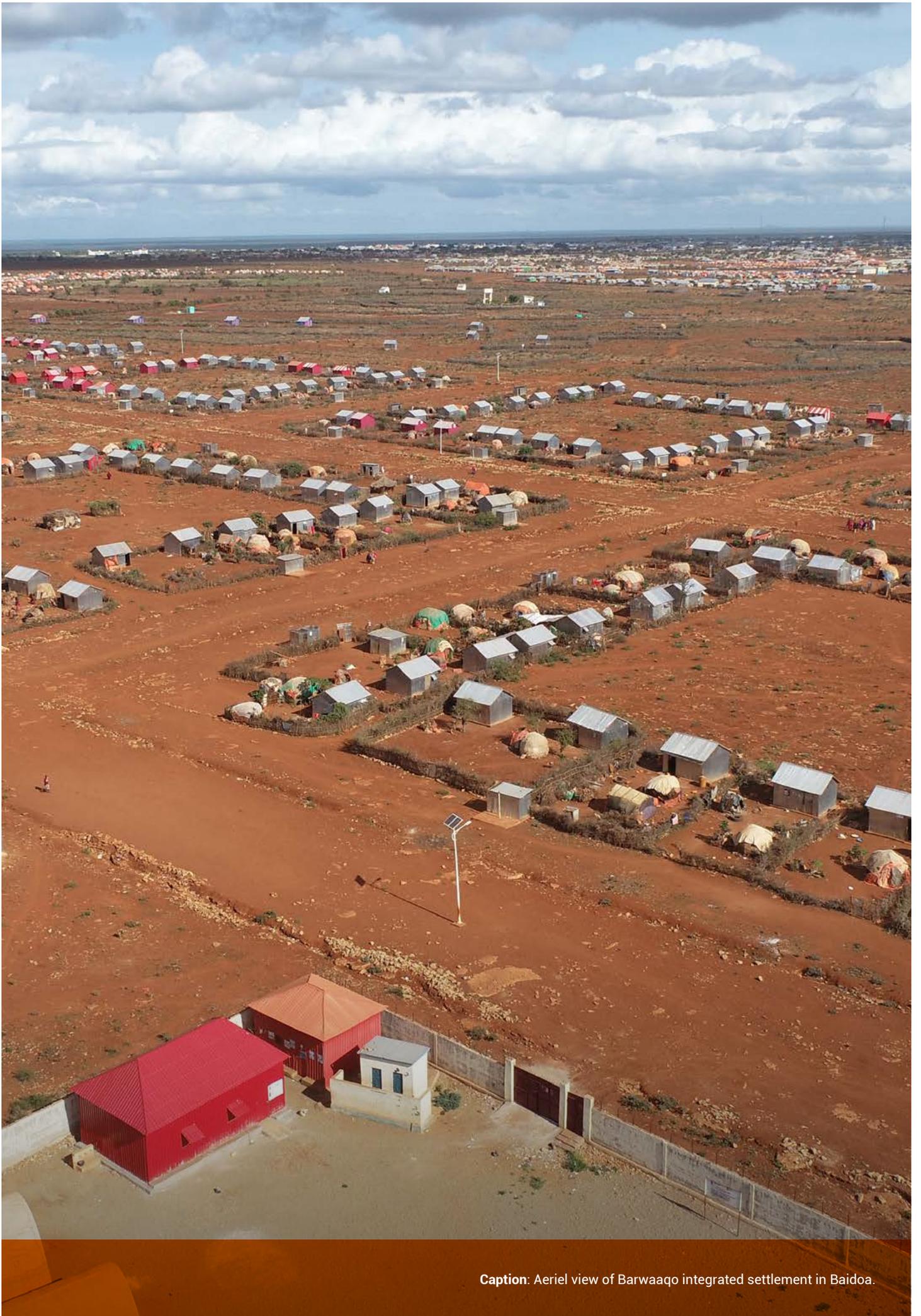
**Somalia: Land Tenure Security**

Number of Households

2015- 2020



A total of **234,492** households have been supported to achieve land tenure security in Somalia between **2015** and **2020**



Caption: Aerial view of Barwaaqo integrated settlement in Baidoa.



NORWEGIAN  
REFUGEE COUNCIL