



“WHO ARE YOU?”

Linkages between Legal Identity and Housing,
Land, and Property Rights in Somalia

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AUTHORS

Juliette Syn and Laura Cunial

PEER REVIEW

Shezane Kirubi and Evelyn Aero

FIELD WORK CONDUCTED

Mohamed Abdiweli
Abbas Aden Ahmed
Amir Mohamud Hassan
Abdimahad Sheikh Ibrahim
Alisalebana Jama
Abdirahman Abdi Mohamed
Mohamed Abdi Hashi
Mohamed Yarrow
Abdikheir Maalim Shale
Boqore Ali Omar
Hassan Elmi Mohamud
Khadar Qorane
Sadca Salah and
ICLA paralegals working across
Somalia

PHOTOGRAPHS

Abdulkadir Mohamed

DESIGN AND LAYOUT

Benjamin Omamo

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BACKGROUND

There are an estimated 2,007,600 Somalis displaced in South Central, 571,400 in Somaliland and 388,500 in Puntland.¹ Access to legal identity (LID) and civil documentation has been impaired, leading to countless undocumented children and unregistered and unrecognized marriages, divorces and deaths. Somalia does not have a comprehensive, national system of identity management (such as a population register, a civil registration and vital statistics (CRVS) system or national ID system), and a patchwork of largely state-specific functional systems has led to a proliferation of different documents in use to prove identity.² According to the World Bank (WB), over 77 per cent of the Somali population, or close to 12 million people are estimated to lack an official proof of identity. At 3 per cent, Somalia has the lowest under-5 birth registration rate in Sub-Saharan Africa.³ There are no official statistics on marriage, divorce and death registration in Somalia, but it has been reported that these are very low.

Legal identity is defined as “the recognition of a person’s existence before the law, facilitating the realization of specific rights and corresponding duties.”

The lack of legal identity documents has been identified as a major protection concern, directly affecting the enjoyment of an array of related human rights and increasing exposure to protection threats for displacement affected communities (DAC). Legal identity may be defined as “the recognition of a person’s existence before the law, facilitating the realization of specific rights and corresponding duties.”⁴ For the purpose of this Policy Brief, legal identity documentation refers to an official document that proves a person’s legal identity and includes civil status documents and nationality documents. These documents are often a product of administrative processes that state authorities require from individuals to give validity or recognition to various life events (e.g. a child is born.) Without that recognition – which is evidenced by the event being recorded in official registries and by a document issued to the individual – access to rights and services may be restricted as described in the brief.

Lack of national and/or state identity cards has become more important as Somalis are displaced for an increasing number of years and wish to locally integrate with their hosting community, rather than return to areas that are still struggling with insecurity, drought and famine. This Policy Brief first outlines the main findings regarding Somali IDPs who are without basic documentation and how this impacts their access to HLP rights, and then offers guidance on potential steps to mitigate and address these challenges

1 <https://data.unhcr.org/en/situations/horn/location/192>.

2 World Bank (2016).

3 World Bank (2016).

4 United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), Asia-Pacific Population Journal, Vol. 29, No. 1 (Nov. 2014), pp. 76-77.

to facilitate durable solutions. More detailed legal analysis and information on the situation on the ground is available in a longer report. Information for this brief was gathered through a combination of desk study of existing literature and extensive fieldwork, which was conducted between July and August 2022. The qualitative data is based on 41

focus group discussions (FGD), 27 case studies, and 45 key informant interviews (KII) with national and local officials and leaders, and national and international humanitarian actors in Mogadishu, Baidoa, Kismayo, Bossaso, Garowe and Hargeisa.



Group of men constructing a shelter structure

LEGAL AND POLICY FRAMEWORK⁵

Box 1: Background: Legal Identification Systems

Goal 16.9 of the Sustainable Development Goals (SDGs) established the target that all member states should provide "legal identity for all" by 2030.⁶ In 2017, the World Bank led a process to develop the "Principles on Identification for Sustainable Development," to support the development of identification systems that are inclusive, trusted, accountable, and used to enhance people's lives.⁷

Legal identification systems can be categorized as 'foundational' or 'functional'. Foundational systems are typically meant to manage identity information that provides holders proof of their legal identity as national residents, such as ID cards.⁸ Information in the foundational system is subsequently used in functional systems, such as registers for public health insurance, voters and driver licenses.⁹ The foundational approach provides a national ID number on the basis of physical or biometric data, but is not linked to the holder's legal status.¹⁰

Over the last decade, there have been increased efforts to improve access to civil registration and legal identity documents in Somalia. However, the country still lacks a robust legislative and regulatory framework, especially in regards to implementing an ID system. In early 2021, the Federal Government of Somalia (FGS) adopted the National Civil Registration & Vital Statistics Policy as a step toward creating a national civil registration and vital statistics system. However, laws underpinning the establishment of the national ID card system, such as the data privacy and protection laws are still in draft form, and it remains unclear what other laws have been repealed, amended, and/or are still in force. Moreover, Somalia exists in a complicated state of legal pluralism where secular law, *xeer* (the customary rules and traditions used by Somalia's clan-based society) and Islamic law (Sharia) operate together.

The 2012 Provisional Constitution does not directly establish a right to birth registration, but it does recognise the right to nationality, a name¹¹ and a passport.¹² The National Civil Registration & Vital Statistics Policy (CRVS Policy),¹³ adopted in early 2021, sets out the principles for establishing a public registration system to issue identity documents and certificates for vital events, maintain records and compile/disseminate

5 This Brief focuses on the federal legal and policy framework only. For more information about the legal context in member states, see the full-length report.

6 UN Statistical Commission (2022); Manby (2020).

7 World Bank (2017).

8 Manby (2020); World Bank (2016)

9 Manby (2020); World Bank (2016).

10 Manby (2020).

11 Provisional Constitution, art. 29.

12 *Id.*, art. 21.

13 Federal Government of Somalia. National Civil Registration & Vital Statistics Policy, 2021. Retrieved from <https://moifar.gov.so/wp-content/uploads/2021/10/CRVS-Policy-.pdf>.

demographic and health statistics. The CRVS Policy builds on the Somali Registration and Identification Policy, adopted in 2018, which established the plan to use a unique ID number for each individual as the cornerstone for the development of the identification system and issuance of identity cards that would serve as proof of identity.¹⁴ The CRVS Policy covers five events: birth, death, marriage, divorce and *Kafalah*¹⁵ with the aim of creating records for each event. Legal identity would be conferred through birth registration, updated with the registration of other events, and retired by death registration.¹⁶

In 2019, the Federal Government of Somalia also adopted a National Policy on Refugee-Returnees and IDPs (NPRRI).¹⁷ 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 Provisional Constitution.¹⁸ The Federal Government of Somalia is responsible for the issuance and replacement of "all documents necessary for refugee-returnees and IDPs – both women and men¹⁹ - for the enjoyment and exercise of their legal rights" (e.g. passports, ID cards, and birth and marriage certificates) without unreasonable conditions, such as requiring them to return to their place of origin or imposing prohibitive costs.²⁰ The NPRRI also recommends that refugee-returnees and IDPs a) are included in birth registration and other documentation efforts without identifying them as IDPs; b) can access locations where documents are issued and are provided with financial assistance where necessary; and c) that displaced women and children have documents issued in their own names.

Finally, the Somalia National Durable Solutions Strategy 2020 – 2024 (NDSS)²¹ is the operational roadmap setting out a collective vision to guide the implementation of durable solutions programming under the leadership of the Ministry of Planning, Investment and Economic Development (MOPIED). The aim is create an enabling environment in which DACs (including IDPs, refugees, asylum seekers, refugee returnees and vulnerable host communities) can gradually access durable solutions in an equitable and non-discriminatory manner. With regards to legal identity documentation, the NDSS recognises the current challenges Somali face due to the lack of a national ID system or fully-functional civil registry, and articulates plans to provide DACs with identity documents, such as by scaling up the WB-funded Digital ID to include IDPs and refugee returnees, and by mobilising donor support to maximise resources and avoid duplication of identity systems.²²

The National CRVS Policy adopted in 2021, sets out the principles for establishing a public registration system to issue identity documents and certificates for vital events.

14 UNFPA (2022).

15 In Islamic family law, "*kafala*" refers to a formal agreement to provide temporary support for an orphaned child until adulthood, and is best understood as a form of legal guardianship rather than adoption.

16 Federal Government of Somalia, National Civil Registration & Vital Statistics Policy, p.7.

17 Federal Government of Somalia, National Policy on Refugee-Returnees and Internally Displaced Persons, 2019.

18 The Federal Government also adopted the Interim Protocol on Land Distribution for Housing to Eligible Refugee-Returnees and IDPs (2019) to promote tenure security, address the housing needs of refugee-returnees and IDPs, and create clear pathways to durable solutions for these vulnerable populations. The protocol reaffirms the obligations set forth by Article 43 of the 2012 Provisional Constitution.

19 Federal Government of Somalia, National Policy on Refugee-Returnees and Internally Displaced Persons, 2019, Principle 8.3.

20 Id., Principle 8.1.

21 Federal Government of Somalia, National Durable Solutions Strategy 2020 – 2024 (NDSS), 2019. Retrieved from https://mop.gov.so/wp-content/uploads/2022/07/The-National-Durable-Solutions-Strategy-2020-2024_English.pdf.

22 NDSS, p. 52.

Box 2: Somalia Nationality Law and the National Action Plan to End Statelessness in Somalia

Nationality in Somalia is nominally regulated by the 1962 Citizenship Law,²³ which establishes that citizenship can be provided to anyone whose father is Somali, or who is ethnically Somali and who renounces claim to any other nationality.²⁴ "Somali" is defined in the law as "any person who by origin, language or tradition belongs to the Somali Nation."²⁵ The 1962 law provides that Somali women cannot pass on citizenship to their children or to their noncitizen spouse. It does not permit dual citizenship, though the later Provisional Constitution of 2012 does do so. To respond to these challenges, in 2021 the Federal Government of Somalia launched the National Action Plan to End Statelessness in Somalia (2021 – 2024), which prioritizes six areas of action including removing gender discrimination from nationality laws and ensuring all births are registered.

Box 3: State Law in Somaliland and Puntland

While the federal government maintains that the issue of national identification is under its jurisdiction, other states like Puntland and Somaliland believe that the state holds authority to manage the matter.²⁶

Puntland: The Puntland Constitution (2009) does not directly recognize the right to legal identity or birth registration, but it does enshrine a child's right to life, name, citizenship, upbringing, care and education.²⁷ The Puntland Law 7 (2003)²⁸ recognises the role of the Local Government in the "registration of the people in the district and safe keeping of the records of birth, death, marriage, divorce etc."²⁹

Somaliland: The Somaliland Constitution (2000) attributes citizenship to the descendants of persons residing in Somaliland on 26 June 1960, the date of independence from Britain.³⁰ The Citizenship Law (2002) specifies that descent must be traced through the male line,³¹ and states that proof of Somaliland citizenship may be obtained by an individual who produces a court declaration made by the Ministry of Internal Affairs registered *Akil* (clan chief) of the individual's community, and the signed form from the Citizenship Office designed for this purpose.³²

The World Bank is providing technical and financial assistance to the Ministry of Labour and Social Affairs (MoLSA) to set up a Unified Social Registry (USR) which is intended to become a platform that supports registration and the determination of eligibility for all social programmes in Somalia. The USR would serve as the national database of households' socio-economic information, and the national ID system would use the same unique identification number assigned to that person in the USR.³³ The focus is currently on the federal level with the plan of eventually supporting the various states. It is anticipated that the USR will be operational in 2024, though there remain concerns about the capacity of the government to establish and manage strong identification, registration and information management systems.

23 Somali Citizenship Law No. 28 (1962).

24 *Id.*, art. 2.

25 *Id.*, art. 3.

26 World Bank (2016).

27 Puntland Constitution, art. 31.

28 Law No. 7 of 2003 on the Laws of the District Council of the Puntland States of Somalia.

29 *Id.*, art. 9.

30 Somaliland Constitution, art. 4.

31 Somaliland Citizenship Law No 22 of 2002, art. 2.

32 *Id.*, art. 3.

33 World Bank (2022).



Displaced mother with her baby on of the IDP camps in Kismayo.

PLANNED AND ONGOING DEVELOPMENT IN THE SECTOR

The World Bank has also been providing technical assistance and financial support for the design and establishment of an ID-enabling legal and institutional framework and system (Somalia Capacity Advancement, Livelihoods and Entrepreneurship, through Digital Uplift Project (SCALED-UP) project or "Digital Uplift Project").³⁴ The project will issue unique identity numbers to individuals based on their biometric data and other basic information.

Any adult resident of the country will be eligible to register and receive a digital identity document, whether or not the person is a citizen or has any existing documentation. This biometric database will then be the foundation for other identity documents, including driver licenses, passports and voter registration cards, and will also link with the USR.



CHALLENGES IN OBTAINING LEGAL IDENTITY DOCUMENTS AND USE OF ALTERNATIVE DOCUMENTS

The actual implementation status of federal policies and the establishment of the national ID card system have been uncertain and slow. States and municipalities issue their own LID documents, which has led to a proliferation of different documents used to prove identity. Research respondents in all areas were aware of at least some types of official LID documents, with the most commonly mentioned being birth certificates, ID cards, and security clearances/criminal investigation documents that were given by the police after a background check affirmed that the applicant was not a criminal.

IDPs were in agreement that anyone who could pay could get the LID documents they needed, but said that most people could not afford the costs³⁵ and that they lacked information on official processes and fees.³⁶ For instance, in one group in Baidoa, some people said that a birth certificate cost \$15 USD while another one said it was \$25 USD,³⁷ and members of the host community (in another discussion) said that the cost "*is not permanent, so I can't state the exact cost.*"³⁸ Similarly, in Somaliland, one group of IDPs said IDs cost \$30 USD³⁹ while another said \$50 USD.⁴⁰ Regardless of the exact amount, documentation is unaffordable for the vast majority of IDPs.⁴¹

The second most reported barrier to accessing documentation was procedural. IDPs reported confusion around who issues a particular document, as the official processes are not clearly published anywhere.⁴² Moreover, ID cards are not available in the IDPs camps, which are often located far from urban areas or on the outskirts of cities, so transportation costs to/from the service provider adds to the expense.⁴³ Civil registration is also not available in IDP sites, and IDPs can only obtain a medical notification from medical facilities if the birth or death takes place in a hospital. For home births and deaths (which are common), there is no documentation. There is no consistent system to register marriages and divorces.

The importance of LID documents also remains unclear to many IDPs, as many Somalis have been living without them for decades, particularly those coming from rural areas where they had long lived with their clans: "*We knew everyone and everyone knew us.*"⁴⁴ In addition, the state was either absent or very weak in large parts of the country: "*We did not need identity documents because there was no government there to ask people to show their identities.*"⁴⁵

35 MG FGD 1.
36 MG KII 2, JL KI 3.
37 BD FGD 9.
38 BD FGD 12.
39 SL FGD 1.
40 SL FGD 2.
41 KII 3.
42 MG KII 2, JL KI 3.
43 KII 5.
44 MG FGD 5.
45 BD FGD 5.

Box 4: Challenges for Women

Somalia is one of the few countries in the world that has not ratified the Convention on the Elimination of All Forms of Discrimination Against Women. Throughout the country, traditional gender roles and *clan-based culture* still discriminate against women, and they typically bear an unequal brunt of the hardships occasioned by poverty and the conflict.⁴⁶ Several women told the research team that while they were aware of LID documents, they knew nothing about the

details, because "The men are familiar with these things."⁴⁷ Additionally, women noted that they faced more challenges than men in accessing documents because they need clan leaders or chiefs for the process, who are always men and not always happy to support women.⁴⁸ This is in line with findings from the World Bank, which estimates the current gender gap in ID access in Somalia is over 10 per cent, while in Somaliland the gender gap in ID access is 9 per cent.⁴⁹

In a context where it is well known that official identity documents are often not available or affordable, it is unsurprising that respondents listed a multitude of alternative non-governmental documents and records that may be used to prove legal identity. These include documents issued by business or humanitarian actors (such as the WFP SCOPE card⁵⁰), student IDs, mobile phone registration, bank cards, security clearance certificates, and camp registration forms. However, the extent to which these alternative documents can be used as general identity documents is unclear, varies from place to place and likely depends on the reason proof of identity is needed, as well as the person verifying the document in question.

Respondents in all regions agreed that the most common method to prove identity was to have a clan elder, relative, or other respected member of the community serve as a witness to vouch for your identity.⁵¹ Reports from Baidoa, Jubaland, Puntland and Somaliland affirmed that if someone was seeking to live in an IDP shelter and had no formal documents, they would be able to explain their clan lineage – where they came from, who their family was, who their clan was, etc. – to gain access. In many instances, this would not be difficult; newly arriving IDPs go to camps of their clan, often joining their family, neighbors and friends.



Ongoing biometric verification of beneficiaries in Mogadishu.

46 KII 3, 4, 5, 10.

47 MG FGD 4.

48 SL FGD 5.

49 World Bank (2019).

50 KII 2; WFP (2017).

51 All FGDs.

LEGAL IDENTITY DOCUMENTATION AND ACCESS TO HLP FOR DISPLACEMENT AFFECTED COMMUNITIES

The majority of DACs have self-settled in over 3,400 IDP sites across the country.⁵² According to the CCCM Cluster, 85 per cent of the sites are informal settlements on private land, and about 74 per cent of them are in urban areas.⁵³ For private land, the most common arrangement involves IDPs reaching agreements with local landowners for land where multiple families could construct their shelters. These contracts can be verbal or in writing, though there is a greater risk of eviction with verbal agreements. The use of land can either be free or for some agreed upon payment. These mechanisms have limited accountability and little adherence to minimum standards,⁵⁴ and IDPs often live in unsanitary conditions and without basic services, with most sites being managed by informal settlement managers.⁵⁵

Mogadishu and Baidoa have seen massive influxes of IDPs, and local officials, host communities, camp leaders and clan relatives have helped them find space to stay without requiring any legal identification documents. However, it cannot be assumed that this system will always work. Entry into towns and camps without identity documents is simple because of the strong ties of family and clan. Humanitarian workers in Mogadishu and Jubaland say that someone who has no such ties may not be accepted into the community,⁵⁶ and those who are forced to flee to areas where they do not know anyone may have a much harder time finding a place to stay, as in Omar's case below.

Case Study: **"For someone who has no relatives where they seek asylum"** – Omar's story⁵⁷

Omar had a house and farm in his home town, but insecurity and recurrent droughts forced he and nine of his children to leave. They went to Baidoa, hoping to find refuge and a better standard of living. He had no relatives in Baidoa, and recounts the pain he went through for days, while he tried to prove his identity to the camp leader in order to find space for his family. He was finally able to secure some space, and he now pays ten dollars a month for a four square meter room where he, his wife and seven children live. He is a Quranic teacher, which does not always bring enough money to care for his family, and he is the sole breadwinner. He prays that he will one day be able to return home so he no longer has to pay rent for the severely overcrowded conditions in which he and his family live. Remembering the experience, he says he wishes he had identity documents, and given the opportunity, he would *"grab it with both hands; it feels like a basic need, especially for someone who has no relatives where they seek asylum."*

52 KII 5 and https://data.unhcr.org/en/situations/cccm_somalia

53 CCCM, Detailed Site Assessment (DSA); <https://cccm-cluster-somalia.github.io/OPSMAP/>.

54 CCCM Cluster Somalia Strategy, January 2022, <https://reliefweb.int/report/somalia/cccm-cluster-somalia-strategy-january-2022>.

55 KII 8, 19, 20 and NRC (2021).

56 KII 14.

57 BD CS 6.

Even IDPs who can enter camps live in fear that they will be forced to leave. The lack of identity documents can keep communities affected by displacement in these precarious conditions, limiting their ability to move out and up into housing situations that are more stable and that provide greater tenure security. Moreover land disputes between IDPs, returnees and host communities remain a big challenge; in some cases, investments in infrastructure for DACs increases the value of the land and the owners will choose to sell the land for a profit.⁵⁸ The increasing number of forced evictions since 2017 has been well documented, with the most forced evictions taking place in two districts in Mogadishu and Baidoa district.⁵⁹

Officially registering HLP transactions to prove use or ownership rights requires LID documents, but a common alternative is to go to a public notary to obtain a written statement attesting to their rights. To notarize a document, the requesting party or parties should also have official identification documents, but as one notary explained, *"After 30 years of civil war, most people won't have documents. We will ask, but they won't have."*

Instead, the requesting party must bring witnesses to vouch for them in front of the notary; these witnesses must have LID documents themselves. The notarized document can then be used as proof of the holder's identity in regards to the transaction described in the document (e.g., the buyer of property, the tenant in a rental agreement, etc.),⁶⁰ though the transaction is still not officially recorded in the land registry.

To support durable solutions, there have been efforts by local governments to find land that can be given to DACs, usually by granting them temporary and/or incremental security of tenure to the land they have been occupying.⁶¹ Although official registration of ownership requires the applicant

to have LID documents, in some instances of land granted to IDP communities, local governments have provided the titles even when the new owners have no official proof of identity. One possibility that could be considered for the future is for government actors to provide both LID and HLP documents at the same time.

Box5: State-supported efforts to issue formal tenure documents

Similar to the case of LID documents, IDPs face challenges in accessing HLP documents because of unaffordable cost, long processes and lack of knowledge. Tenure security documents include rental contracts, lease agreements, temporary occupancy certificates, communal land agreements, title deeds, and any other qualifying documents that are issued by relevant government agencies. Such documents prove that the holders have the legal right to be on the land and/or property they are

occupying. NRC has worked with local authorities to support efforts to formalize rental agreements between the owners and IDPs and to issue legal tenure security documents to provide more certainty for all parties involved. In Baidoa and Mogadishu, NRC has also strengthened its engagement with public notaries to authenticate land tenure documents. In total, since 2017 over 394,000 individuals (an estimated 58% are female) have been supported to secure land tenure security. Of this total, under the leadership of local authorities, NRC has also supported the issuance of land titles for 14,738 displaced families across Somalia for land granted by the government or that they have been able to purchase themselves.

58 Durable Solutions Initiative (2019).

59 NRC (2021).

60 KII 13.

61 KII 8.

LEGAL IDENTITY DOCUMENTS, SELF-RELIANCE AND DURABLE SOLUTIONS

The lack of identity documents limits the enjoyment and exercise of other rights and services, such as freedom of movement, the ability to open a bank account and obtain other documents. For example, many displaced individuals say that they cannot pass through a security checkpoint without proof of ID, which also limits their ability to move beyond certain areas around the camps where they lived. Communities affected by displacement note that an important benefit of possessing legal identity documents is that they serve as proof that the holder is not a criminal and will not be arrested.⁶²



Displaced female IDP evicted from her shelter

Case Study: *"To travel freely as a normal citizen."* – Ailine's Story⁶³

Ailine lives in an IDP camp in Galkacyo. She is a mother of five children (two boys and three girls) and arrived in Galkacyo in 2006 after the conflict between the Federal Government forces and non-state actors erupted in Baidoa. When she arrived, she joined one of the existing IDP settlements. North Galkacyo is under the Puntland administration, which hosts more than 50,000 IDPs from Southern Somalia. The city administration began issuing Puntland state IDs in 2009, but IDPs were excluded from the process.

One day, Ailine tried to travel to Garowe to visit her sick aunt, but the police at the checkpoint stopped her and others from Southern Somalia on the bus from continuing on their travels because they did not have IDs or other documents that showed that they were from Galkacyo. The police held them for four hours, then told them they would have to come back with legal identity documents if they wanted to proceed to Garowe.

62 KII 1, 3.
63 PL CS 3.

"I felt like I was being treated like a foreigner. We cannot get an ID and no one will bail us out. The amount being paid is too much, and we cannot afford it. They police do not know us, they lock up our boys when there is a curfew, we cannot get a loan from the bank because we do not have an ID. I live in a house that I own, and I have a land certificate that the government gave me. People living in this camp do not pay rent, and we do not face forced evictions, but we still have challenges when we want to travel due to the lack of Puntland IDs and accessing bank services. Here we do not have cash and we are forced to use mobile money, and we are even not able to increase the mobile money limit due to lack of an ID. Telecommunication companies here only accept Puntland IDs and Somali passports, and you cannot have a passport if you don't have an ID. Accessing banking services is challenging truly. We are hearing that all people living in Puntland will have national identity cards in the coming months, including IDPs, which is very important to us. This will give us access to travel freely as a normal citizen, access mobile money services, and live as a normal person with full dignity and rights."

Having an ID card can also facilitate access to other important documents, such as a passport or driver license. Being able to legally drive can have a significant impact on a person's ability to find work, go to school, or handle administrative matters. Further, official IDs can allow holders to open bank accounts,⁶⁴ secure loans and receive remittances. The lack of personal documents can limit IDPs' ability to reach their full potential in improving their lives, as in Yusuf's story below.

Case Study: **"To have their existence legally recognized"** – Yusuf's Story⁶⁵

Yusuf is 63 years old. Twelve years ago, he and his eight children left their home because of famine and conflict; they now live in Kahda district in Mogadishu. Life in Mogadishu was hard at that time; he did not know anyone, and many IDPs were flooding into the capital. He was assisted by humanitarian agencies that placed them in a camp. Today, Yusuf has turned his life around. He now lives on land that he bought from a private company with cash assistance from humanitarian agencies, and they have their own house. His children go to school, and he helps his wife with her business.

However, no one in Yusuf's family has any legal identity documents. His children cannot get birth certificates. Yusuf used to be a driver, but he cannot get a driver license. His wife's business brings income, but it is not fully legal. Yusuf says that he has a title deed, but has no ID to prove that the deed is legally his. According to Yusuf, the ID documents are important because they *"support an individual's right to recognition before the law and acknowledges their formal relationship with the state – to have their existence and identity legally recognized."*

ID documents are important because they "support an individual's right to recognition before the law and acknowledges their formal relationship with the state..."



NRC staff registering one displaced male.

Finally, there is some indication that moving out of the IDP camps/settlements into one's own home and property is perceived as changing one's status from an IDP to a member of the host community, facilitating durable solutions to displacement.⁶⁶ As one key informant explained, *"For the Somalis, if the person comes and has the means to buy a plot, that is local integration; they are not an IDP."*⁶⁷ People interviewed for this brief stressed that without legal identity documents (e.g., a state or national ID), they would never be able to buy their own land and property, and so could not achieve this goal. Many IDPs who were interviewed expressed the desire for legal identity documents, and while there are many reasons, one that always comes up is the desire to have the rights and benefits like any other citizen.

All IDPs and several host community members said that the best way to increase access to LID documents would be to make them free of charge,⁶⁸ or to substantially reduce the cost

(as there was some acknowledgement that the government needed to earn some revenue from the issuance of these documents);⁶⁹ some groups suggested that \$5-10 USD might be a reasonable amount.⁷⁰ Several government officials also stated that fees should be removed, or at least reduced, and information campaigns should be done to inform IDPs of the importance of obtaining documents.⁷¹ One group of women in Baidoa suggested that in addition to lowering costs, there should be coordinated efforts by clan, local and national leaders to raise awareness of the importance of having LID documents, and that camp leaders should go door to door to spread the message.⁷² IDPs also said that the processes should be simplified and be made less bureaucratic; one man in Mogadishu said, *"The process of getting government issued identity cards should be less rigorous, because at this rate we cannot go through every hoop when we don't even use it to access services."*⁷³

66 KII 16.

67 KII 16.

68 All FGDs.

69 MG FGD 1-12; BD FGD 1; PL FGD 2.

70 BD FGD 1.

71 BD KII 2, 3; JL KII 2.

72 BD FGD 4.

73 MG FGD 11.

CONCLUSION AND RECOMMENDATIONS

Identity documents can enable IDPs to secure a more stable life and gain enough economic strength to lift themselves out of the camps and endless poverty. LID documentation is important to fully enjoy HLP rights, and all Somalis, whether displaced or not, have a right to such documents as Somali citizens. The value of being able to move around the country without being arbitrarily detained and to look for better opportunities cannot be overstated, and being able to open a bank account to receive and store money safely can help build resiliency and economic independence.

The possession of legal identity documents will not by itself enhance HLP rights of vulnerable people. To gain better tenure security and build self-reliance, efforts to improve access to LID must be combined with other measures.

In light of the challenges outlined in this brief, it is clear that issues of cost and procedural complexity should be addressed in future efforts to increase access to LID documents. Given the

low use of such documents in the country – particularly among DACs – government actors should ensure that citizens are helped to understand the importance of obtaining such documents, without burdening them with fees and fines for failure to do so within arbitrary deadlines. Finally the design and implementation of any legal identity and/or civil registration project must include continuous dialogue with its citizens, including DACs, to respond to any changes in challenges and needs that arise.

All that said, the possession of legal identity documents will not by itself enhance HLP rights of vulnerable people. An identity document may enable a person to formally purchase and register ownership of property, but to gain better tenure security and build self-reliance, efforts to improve access to LID must be combined with other measures, such as ensuring that the issuance of documentation does not become a discriminatory tool that can be used against minority clans or other outsiders (e.g., displaced members of minority clans are denied identity documents in other states⁷⁴), and developing the country's institutional capacity to manage identity systems and property rights. A comprehensive approach is needed – one which looks not just at the issuance of legal identity documents, but also the supporting components that would allow more equitable access to livelihoods and assets and improve opportunities for all Somalis to build better lives.

The following recommendations are made for consideration:

The Government of Somalia, the World Bank and all stakeholders involved in all legal identity initiatives should:

- Not require beneficiaries to produce documentation in order to enjoy HLP rights and access public services such as education and health while the national ID card and the CRVS systems are being established.
- Consult displaced persons in the design and implementation of legal identity initiatives to facilitate efficient, effective, and accountable interventions that are based on a contextualized analysis and address actual identification-related needs and barriers of DACs.
- Implement inclusive policies and practices to facilitate DAC's access to legal identity documents and basic rights, services, and livelihood opportunities – e.g., using interim identification methods, "time limited amnesties,"⁷⁵ to ensure all Somali can obtain the required identity documentation.
- Integrate legal identity components into projects addressing socio-economic needs like the USR, and link implementation with ongoing and future civil registration processes.
- Ensure that projects related to legal identity and civil registration respect the Principles on Identification for Sustainable Development and other relevant standards in forced displacement settings. These Principles are critical for promoting universal access to legal identity, as well as advancing economic and social development and ensuring no one is left behind in Somalia.
- Increase coordination on ongoing and planned LID initiatives and ensure better alignment/sequencing of registration systems.

Humanitarian and developmental actors should:

- Ensure that the provision of humanitarian and development assistance is not conditioned upon beneficiaries having ID cards or any other legal identity documentation.
- Support Government efforts to establish a national ID card and CRVS systems by:
 - › Ensuring that IDPs, (I) NGOs and civil society actors are consulted and involved in the design of these system, and that DACs are not excluded from registration processes.
 - › Raising awareness of the importance of obtaining official civil documentation.
 - › Coordinating with camp management actors to explain requirements, steps and costs to obtain official ID cards and civil documentation.
 - › Preparing for potential legal counselling and assistance activities to facilitate access to identity documents – e.g., legal accompaniment for vulnerable displaced persons, such as widows and families from small clans.



A national ID card system should consider: Time allowed for registration; Location for registration; Cost for registration; Proof required for application; Data protection; and Gender considerations.

75 The issuance of an amnesty period during which individuals can obtain identity documents and/or civil documents without paying fees or fines for late registration.

- Advocate for civil registration that is free, inclusive and accessible to all. In particular, a national ID card system should consider:
 - *Time allowed for registration:* Considering the low levels of civil documentation (whether birth certificate, ID card or passport) across the country and the current context, national ID cards should remain free of charge for at least the first 3 to 5 years to ensure that all populations can access them.
 - *Location for registration:* Administrative processes that require individuals to obtain ID cards in their place of origin or habitual residence are a common obstacle and should be avoided. An accessible system will need civil registry centres to be established in municipalities across the country, and should include mobile registration units to reach people with limited freedom of movement or who cannot afford transportation costs. Online applications (for replacement and first-time ID cards) may be introduced. IDPs should be able to apply for LID documents at any service provider.
 - *Cost for registration* – Application for an ID card should be free of charge to be able to encourage universal and compulsory registration in Somalia. There should be no application fees or fines for late registration.
 - *Proof required for application* – It is important to ensure a minimum burden of proof in terms of documentation or witnesses to apply for identification documents, in accordance with international standards and practice. Vulnerable populations, including displaced persons, are largely undocumented and may have difficulties satisfying any proof requirements due to family separation or lack of proximity to their clan elders. Non-government or alternative documents, or other forms of evidence (for example, the SCOPE card or witness from the clan) should be accepted as proof of identity. This is particularly relevant given the low rate of birth registration (and thus documented evidence of date of birth) across the country.
- *Data protection:* Any platform should meet data protection standards and allow Somalis to collect documents from easily accessible locations.
- *Gender considerations:* Because of the current context and existing discriminatory norms, gender considerations should be kept in mind to ensure that all women, including displaced women, are able to obtain the required ID card. For example, IDP women report that it is sometimes difficult for them to convince male clan elders to vouch for them in administrative processes and alternative witnesses could be considered.
- Continue to document and research issues related to legal identity, including for IDPs, refugees and returnees and for specific geographic areas (e.g. displacement status of refugees, asylum seekers and migrants in Somaliland; gender implications on access to LID documents and civil registration; document processes to obtain LID documents).

World Bank and donors should:

- Commit financial and technical support to the Government in this endeavor. The limited capacity of the Government at federal and state member levels and the fact that the country has never had an identity management system in place will require a gradual, comprehensive and long-term approach and plan.
- Ensure that identity management projects include practical safeguards against discrimination and include DACs.

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