

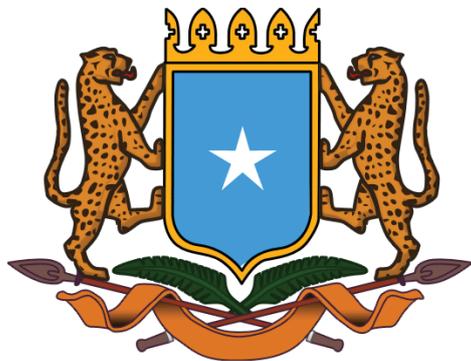
29/30 DECEMBER 2017

**FORCED EVICTIONS
COMMITTEE REPORT**



**Benadir Regional Administration
Mogadishu, Somalia**

April 2018



This report was made possible by the strong leadership of H.E. Abdirahman Omar Osman Eng. Yarisow, the Governor of Banadir and Mayor of Mogadishu. Special thanks to the members of Forced Evictions Committee and the entire Banadir Regional Administration and staff for their contribution to the development of this report and facilitating the work of the committee without hindrance.



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INTRODUCTION

Mogadishu is the 2nd largest growing city in the world and has been experiencing a dramatic increase in the number of Internally Displaced Persons (IDP) since 2011. The current population of IDPs in the Banadir Region has grown to over 500,000. Environmental factors such as droughts, floods and violent conflicts contribute to a mass influx of people escaping to seek refuge in the region. As the country seeks to rebuild from decades of conflict, the concern of displaced persons only adds to the complexity. Responding to the needs of The implications IDPs have on the government and international aid communities only stretch resources and tax an already fragile development infrastructure.

The unprecedented growth rate of IDPs in the Banadir Region since 2011 has created a humanitarian crisis. The 2016 drought has exacerbated this trend compelling the government to find a government in search of find solutions. Some recent events related to evictions and housing, land and property issues have only exacerbated contributed to perpetuate the cycle of displacement, driving a steady increase of individuals becoming chronically poor in the city the situation. This report seeks to highlight the underlying causes of the recent mass evictions on December 29/30 2017 and to compile recommendations to address general issues related to forced evictions in Banadir. While a number of models exist to promote sustainable and durable solutions, the Housing Land Property issues in the region need focused a lens tailored for the particular challenges of Banadir Region.

The events of 29/30 December 2017 put a punctuation mark to end a year marked with a stark increase in the forcible removals of IDPs in Mogadishu. This single incident saw 4,220 households (estimated 30,000 persons) forcibly removed without adequate notice or due process. These evictions run in contrast to humanitarian guidelines, international laws and local regional policy laws pertaining to lawful evictions. IDPs who were taking up residence in camps along the KM13 corridors were forced out of their semi-permanent housing structures, saw their personal property destroyed, they were separated from their families and some even physically harmed. Moreover, the 29/30 December tragedy not only devastated the lives of IDPs – , it -destroyed investments by humanitarian actors in the millions of dollars both in time and material.



¹Cf. Protection Return and Monitoring Network

BACKGROUND

HOUSING LAND AND PROPERTY CHALLENGES IN BANADIR REGION

BRA faces the challenge of Housing Land and Property (HLP) issues as it strives to protect the rights of IDPs and vulnerable groups, while also preserving the rights of other citizen landowners. These issues stem mainly from two root causes: (i) decades of civil war resulting in the absence of legitimate local governance which in turn has led to excessive land grabs; and (ii) outdated HLP laws and absence of rule broadly. These challenges have had consequential outcomes especially for vulnerable groups.

“ According to BRA’s Housing and Legal Advisor *private landowners presently occupy nearly all land in Banadir Region, but they do this without valid legal means for local authorities to verify ownerships and reclaim any government land* -Sabriye, 2018

Due to the mobile nature of IDPs, they often enter the region in a frenzied state and settle on land without the foreknowledge whether the land is private or public land. This places overwhelming burden on the region due to the scarcity of land and rampant disputes. Humanitarian actors, both local and international often fail to ensure “settlement land” is not a “disputed land” as they are struggle with urgency to provide shelter and other basic necessities. Mismanagement of resettlements, disconnect between humanitarian actors and regional government play a significant role in the continued crisis not being resolved. There are currently no streamlined mechanisms between international actors, local aid organization, regional and federal authorities, as well as other relevant stakeholders, to ensure that housing needs of IDPs are met.

As IDPs settle within the region, they find themselves in a battle of survival between informal settlement managers (gatekeepers) and powerful local landowners. Landowners and gatekeepers often speculate on the price of the land, charging rents beyond the means IDPs can afford, and ultimately forcing them to perpetual displacement. In many instances, in order to secure housing, IDPs resort to selling aid and/or working in inhumane conditions to avoid evictions. The lack of a systematic approach results in the government responding to HLP issues in an ad hoc manner that often escalates. One such example is the events of 29/30 December 2017 in which 4220 families were forcefully evicted in Mogadishu².

HLP violations can be life threatening to the existence and security of IDPs as in the case of the forced evictions of December 29/30 2017. Though forced evictions are not new issues, however the absence of a proper mechanism to handle HLP issues resulted in human rights violations. Data from forced evictions tracking matrix indicate a steady increase in the number of persons forcibly evicted in Mogadishu. The practice of forced evictions of IDPs in Mogadishu in 2015 affected 129,000; by the end of 2017 this number rose to 200,000 (NRC, 2018). Unlike other cities, Mogadishu’s forced evictions are unprecedented in scale with 79% of evictions happening in and around the city. Another compounding feature of forced evictions is that private landowners carry out the majority without due process. High profile incidents in recent months have shed light on the scale and the harsh nature of that practice. IDPs continue to live in constant fear of evictions with the highest rates occurring in Mogadishu.

² Protection Cluster, operated by the Norwegian Refugee Council.

29/30 December 2017 Forced Evictions Committee

On Feb 12, 2018, in response to the mass evictions, the newly appointed Governor of Banadir Region and Mayor of Mogadishu, H.E. Abdirahman Omar Osman Yarisow appointed a Forced Evictions Committee (FEC) to investigate the evictions of December 29/30 2017. The committee had four broad-based objectives:

1. To identify and describe the causes of the evictions on 29/30 December;
2. To determine the economic and social impact of the 29/30 December evictions including loss of property, goods and physical injuries;
3. To examine the lawfulness of the evictions. Were the evictions on 29/30 December 2017 in accordance with local authority's eviction laws and international norms on lawful evictions; and
4. To identify what has been done to address the 29/30 December evictions

In addition to the above four main objectives, FEC devised additional queries (see ANNEX 1) to better understand the cause of forced evictions, the complexity of forced evictions and HLP issues overall. The purpose was to explore the causes leading to the events of 29/30 December and seek solutions to address the objectives of the investigation.



METHODOLOGY

The FEC conducted interviews with BRA staff and leadership both in the previous and current administration. Specifically, those who were interviewed played a role prior, during and after the evictions. Follow-up interviews were conducted with BRA staff to verify and validate information from other sources (cross-checking). These additional individuals requested anonymity considering the sensitivity of HLP issues and fear of reprisals. Affected IDP communities were also interviewed since their voices are central to an understanding of the impact of the evictions and on HLP issues in general. The interviews were semi-structured with relevant departments within BRA participating.

The following departments were interviewed:

1. Deputy Governor of Public Works and Director of Public Works
2. Police Department
3. District Commissioner of Kahda
4. Deputy District Commissioner of Kahda
5. District Commissioner of Wadajir
6. BRA Housing and Legal Advisor

PROCEDURES

The FEC conducted interviews with BRA leadership, staff and affected communities in KM13. The committee also interviewed camp leaders, collected personal impact reports from victims, and reviewed court documents and eviction notices on the incident. Collection of data was conducted over a two-week period from February 14 to February 28, 2018. Given the sensitivity of the topics under discussion, an informal interview approach was offered to some participants to more broadly explore the perceptions of forced evictions within BRA. Representatives from several departments within the BRA were selected to run the investigation. FEC members included Deputy Governor of Social Affairs; the District Commissioner of Kahda; the Director of the Humanitarian Department; and the Regional Coordinator for Humanitarian Affairs and Disaster Management. The Committee was appointed via Mayoral Decree under the Office of the Mayor, on February 12, 2018.



FINDINGS

The following sections present a recollection of the events and decisions leading to the mass evictions. Findings are organized in several sections that look at the role of the local authorities in the eviction, the enforcement of the evictions, the overall damages following the evictions and the response of the Government to the evictions.

EVENTS LEADING UP TO 29/30 DECEMBER

On 29 November 2017, the previous Mayor of Mogadishu and Governor of Banadir Region H.E. Thaabit Abdi Mohamed sent a notice of eviction based on an eviction decree issued by the Benadir High Courts on 16/07/2013. This eviction decree cited was a carryover from the previous administration H.E. Mayor and Governor Maxamud Axmed Nur Tarzan who left office in 2104, stipulated the ownership of a parcel of land located in Kahda District. However, the eviction notice issued in this case (29 November 2017) referred to a parcel of land located in Wadajir District. The parcel of land in the original decree in Kahda District did not correspond to the newly referenced land located in the Wadajir District. Subsequently, upon receipt of the eviction notice, the District Commissioner of Wadajir noted the error and returned the eviction notice to Mogadishu Municipality informing them the oversight and by all accounts, this was seen as an administrative error. However, there is no record of the receipt and return dates of the notice.

The next series of events record the activities just days before the 29/30 evictions:

- 1 On December 26, 2017 District Commissioner of Kahda reported to have received a text message followed by a phone from the Deputy Mayor of Public Works to notify him of pending evictions.
- 2 The District Commissioner was advised to notify the camp residents (estimated to be 800 families) to evacuate as per eviction notice of November 29, 2017 from Mayor's Office.
- 3 An amendment to correct the original administrative error on the notice was not done prior to 26 December 2017, only a verbal correction was provided to the District Commissioner of Kahda.
- 4 The District Commissioner of Kahda informed the Deputy Mayor of Public Works to that evictions would impact over 4000 families not 800 as he was initially advised.
- 5 The District Commissioner of Kahda made a request to Deputy Mayor of Public Works to postpone the evictions given the short notice to relocate 4000 families. This request was denied.
- 6 The evictions were carried out by local police force and other security sectors on December 29/30 2017 without much notice given to evacuate and relocate the camp's residents.

continued

EVENTS LEADING UP TO 29/30 DECEMBER

The District Commissioner of Kaxda concludes, "He did not have adequate time to inform camp residents to duly move out, or for local district to make alternate arrangements". As consequence, over 4220 households were forcibly displaced and their personal property destroyed. One important fact to highlight that underlines this case is that the Kahda parcel in question has been under dispute between two families and has been in front of the high courts for over four (4) administrations.

LOSS OF PROPERTY

The events leading up to and on 29/30 December changed the lives of thousands of families. The series of events do not account for the sheer devastation of these losses. It is hard to ascertain the number of people that were physically harmed, but affected communities reported extreme psychological impact. Through a review of the personal impact reports and interviews with IDPs, the Committee was able to confirm the following loss/destroyed property and investments occurred:

38 Settlements were evicted

2 MCHs

Hundreds of Solar panels

A Feeding center

10 Traditional schools

15 Quran schools

66 Water Points

3 Community centers

A Gender-Based Violence Center

353 Small-scale businesses

360 latrines were also destroyed

A structure to facilitate feeding programs

8 Community meeting centers

GOVERNMENT'S RESPONSE TO FORCED EVICTIONS

The previous Administration's response after the eviction was swift. The Administration was able to provide optimal logistics and supplies to support the needs of IDPs. The administration prioritized the most urgent needs first: shelter, food, water, and sanitation. Within 72 hours of the evictions, BRA mobilized emergency response teams and provided technical and human resource support for local districts to collectively manage and coordinate relief efforts.

The new administration has taken numerous efforts to address the multidimensional needs of IDPs. Upon his appointment, H.E. Mayor Yarisow has appointed a Humanitarian Coordinator to develop policies, frameworks and strategic priorities to address the plight of IDPs within Benadir Region. Furthermore, in its first few months in office, the administration has hosted two consultative forums on IDP issue and commissioned regional IDP policy development process. The BRA continues to seek an inclusive and progressive approach to addressing IDP issues.

BRA successfully delivered the following:

- Resettled affected families to a newly leased land by BRA
- Established temporary shelters for 4,220 households
- Provided emergency food and water for 4,220 households
- Essential supplies and domestic items provided
- Built 20 washrooms



KEY FINDINGS

Administrative oversight that began on 29 November 2017 in the initial district scheduled for evictions (Wadajir vs Kahda) and lack of lawful evictions policies/procedures spiraled into a series of additional errors ultimately leading to the forced evictions on 29/30 December. The committee found the following inaccuracies:

1. Error in the initial reported number of households that would be effected by the evictions (reported – 800 vs actual 4420);
2. Error in land size and location (the size on the land decree was 500m by 250m significantly less than the actual size where the evictions took place);
3. Administrative error delaying the notification of the appropriate district authority, causing consequent delays in informing affected communities;
4. Eviction notice not verified/vetted causing delays in the notification process.
5. Lack of clear lawful evictions policies and procedures.



continued

KEY FINDINGS

FEC has found that the 29/30 December 2017 evictions violated the following rights of IDPs:

1. Violated the dignity, right to life and security of those affected.
2. Rendered 4220 families homeless.
3. Destruction of property of vulnerable groups.
4. Undue force was used during eviction and communities were subjected to violence
5. Alternative shelters were not made available prior to evictions.
6. Eviction notice was not issued in writing at least 60 days prior to the eviction date in accordance with lawful evictions.
7. Inappropriate methods used to communicate evictions (text and phone call).
8. The specific needs and perspectives of women, children, the disabled or elderly were not taken into account.
9. IDPs and other at risk of eviction did not have the right to have the lawfulness of eviction review process.
10. The right to an effective remedy and legal aid to seek redress was not provided.

While errors are often commonplace in organizations or even governments, there needed to be better oversight and accountability to provide the proper checks and balance within the system. Government leaders cannot be expected to make sound decisions given inaccurate data. The lack of adequate notice; the confusion over land and property laws and how they are enforced; and the lack of due process for lawful evictions have all played a pivotal role in the devastation that ensued the December 29/30 2017 unlawful evictions.

The Committee concludes that actions taken by local landowners and local authorities using local/federal government resources (i.e. - Somali police force, military personnel and regional security) on 29/30 December 2017 violated IDPs right to life, safety and protection of property. These actions further interrupted the resilience and coping mechanisms of communities with limited capacity and resources to deal with their situation.



RECOMMENDATIONS

A key function of a government is to understand its responsibility to protect individual rights in a fair and impartial manner especially vulnerable group such as IDPs. While administrative, procedural and policy gaps have led to the evictions of December 2017, the current regional administration and its leadership needs to implement immediate change to ensure such gaps are not repeated. While the previous administration focused on immediate response to address the urgent humanitarian assistance (i.e.-housing, water and other essentials), the current administration should recognize that a multipronged approach is required to create more comprehensive HLP laws and reform its current standards so they are protection and rights based. Presently, majority of IDPs camps are at high risk for forced unlawful evictions without the prospect of secured tenure, the administration needs to take immediate concrete actions to avert unlawful evictions. The concerns expressed in this report are both of humanitarian as well as challenges development and security of the region. The committee recommends the following actions to address short-term needs and to pave the way for a more inclusive progressive durable solutions strategy:

1. Strengthen lawful evictions guidelines to ensure IDPs are guaranteed due process if evictions become inevitable.
2. BRA to review of all pending evictions while relevant HLP policies and frameworks are established and enacted.
3. BRA to establish a rapid response eviction prevention committee with the capacity for a 24/7 emergency response/call-out service.
4. BRA to adopt displacement focused priorities across sectors and support durable solutions strategy that addresses forced evictions and underlying causes of displacement.
5. Develop IDP policies in line with international norms and frameworks such UN Guiding Principles, Kampala Convention on IDPs and The Inter-Agency Standing Committee (IASC) framework established guide to Durable Solutions for displaced persons.
6. Mayoral decree to secure land/tenure for high-risk eviction camps in the region as part of durable solutions strategy.
7. Commit to a dispute resolution mechanism in BRA for administrative land and tenure disputes and negotiate a minimal flat rate for IDPs that would make this dispute resolution mechanism accessible to them.
8. International partners, relevant stakeholders, private sector, civil society, and BRA to create equitable rental schemes based on the ability to pay with subsidies as integral part of durable solutions strategy.
9. International partners to support BRA to enhance institutional capacity at municipal and at district level through the creation a Durable Solutions Unit.
10. Strict sanctions and enforcement placed on those who commit human rights violations against vulnerable groups and IDPs.
11. Work with national and regional governmental partners in the development of national IDP policy and FGS to ratify the Kampala Convention.
12. In partnership with international partners, civil society, private sector, religious leaders BRA to initiate public awareness and sensitization campaigns on need to protect vulnerable groups such as IDPs.
13. The use of force by state and private security apparatus should be a last resort when legal and remedial procedures have been exhausted. In the event that force is used it should exert minimum force against unarmed civilians.
14. BRA to develop policies on gatekeepers and informal settlements



CONCLUSION

The evictions of December 29/30 2017 devastated countless families, and could have been avoided. Human error and lack of a systematic approach to HLP related issues changed the lives of thousands of families. The widespread forced evictions continue to affect the delivery of humanitarian aid and adversely impede the attainment of durable solutions. Gross violations of human rights against IDPs continue to take place due to unresolved complex HLP issues. The most pressing of these are lack of policies and legal frameworks both at the national and regional level. The lack of coordination between key governmental institutions such the courts, security forces, regional and district administrations and the lack of legal recourse for IDPs and their advocates continues this perpetual cycle of abuse and violation. It is clear that IDPs are more vulnerable to HLP rights violations due to lack of tenure insecurity and a general lack of protection. The implementation of the committee's findings will be instrumental that IDPs secure the full protection of the government both federal and regional and towards durable solutions.



ANNEX 1

COMMITTEE QUESTIONNAIRES

1. Is there a legal and regulatory framework for evictions within BRA?
2. Are there laws, policies or programmes in place to protect against forced evictions within BRA and are these laws enforced?
3. Have alternatives to eviction been considered?
4. Were communities informed of evictions?
5. Were communities consulted at any stage?
6. Are there administrative or judicial review mechanisms to challenge these decisions? Have they been used? Are they timely and effective? Are they accessible and affordable?
7. Are there legal recourses available to challenge the decision and how to access these?
8. Do the affected individuals and communities have access to legal counsel without payment if necessary?
9. Do the affected persons have enough time to access recourse mechanisms before the eviction takes place?
10. Was an inventory drawn up to assess the properties, investments and other material goods that are expected to be destroyed or could potentially be damaged?
11. What measures are foreseen to prevent them from becoming homeless or vulnerable to violations of other human rights?
12. What short term and long-term solutions were foreseen to ensure that the affected persons/households are adequately housed? Have the affected persons or their representatives been informed of these measures?
13. Is there a right to adequate housing legislations within BRA.