

Stuck in the Mud

Addressing Urban Displacement and Tenure Security in Kabul's Informal Settlements

Complexities of ambiguous land ownership, power dynamics, and private interests need to be addressed to devise and implement adequate structural changes that would allow durable solutions for thousands of families living in Kabul Informal Settlements.

Context

There are at least 55 informal settlements in Kabul, ranging in size from dozens to hundreds of dwellings, and accommodating some 55,819 internally displaced people and refugee returnees¹ in mainly tents or mud brick and tarpaulin shelters. There is significant variety between the settlements not only in terms of size, but also in terms of culture and ethnic composition of inhabitants, length of existence (from 2 to 20 years²), and, importantly, the nature of the land ownership on which the settlements are located.

Besides this variety, there are also two common traits present across almost all these sites: the poor physical conditions of the shelters and infrastructure, and the insecure tenure of the residents. There are many well-intentioned attempts by NGOs, UN agencies, civil society groups, and Afghan civil servants to find solutions to the poor conditions and protracted displacement of the families living in Kabul's informal settlements,

including programmes to improve shelters and dig wells, provision of education and recreational activities for displaced out-of-school children, and the development of policy frameworks to integrate or resettle displaced households. In addition, a number of potentially game-changing policies and papers that have been drafted - and in some cases approved - to upgrade informal settlements or relocate displaced populations. However, these efforts continue to be thwarted by underlying power dynamics that prolong and prevent attempts to implement such initiatives and policies.

To better understand the situation in the Kabul Informal Settlements, NRC has conducted a qualitative study, focussing on three settlements (described below as Site 1, 2 & 3). As well as conducting interviews and focus groups with residents, NRC also spoke with landowners and representatives from government authorities. This position paper is an extract of a longer paper, which will be published as a background paper to the IDMC Global Report on Internal Displacement 2019.

¹ Kabul Informal Settlements Task Force, Kabul Informal Settlement Profiling, 2018.

² The KIS Taskforce profiling found that families had been living in these sites for an average of 5.7 years.



Internally displaced children play with a kite in one of Kabul's 55 Informal Settlements. Photo: NRC/Enayatullah Azad

Effect of tenure insecurity on displaced person's ability to obtain durable solutions.

There are three commonly recognised durable solutions for displaced persons: formalising their stay where they currently live (by providing services and improving tenure security), moving to another location, or going back to their place of origin. However, for the inhabitants of Kabul's informal settlements, progress towards durable solutions is constantly frustrated by the complexities of land ownership, local power dynamics, private interests and the weak enforcement of national policy frameworks. They are unable to obtain adequate living conditions in their current locations, unable to move to any other location due to lack of available land, and unable to return to their places of origin.

Inability to obtain tenure agreements

The ambiguities and lack of institutional controls and systems for determining land ownership in Kabul makes obtaining tenure agreements in KIS almost impossible. In Sites 2 and 3 of NRC's research, ambiguity over the true landowner of the sites makes it challenging for residents to push for tenancy agreements and keeps them at indefinite risk of eviction and/or destruction of their homes. In Site 3, for example, those consulted reported that four different men claimed to be land owners for one piece of land.

In Site 2, the residents reported that they have been approached by two individuals claiming to own the land, which has apparently been confirmed by the State Ministry for Parliamentary Affairs (a ministry that would not usually be involved in confirming land ownership or resolving land disputes). Despite the claims of these individuals, 80% of the site residents believe the land is government owned and discussions with the Afghanistan Land Authority (ARAZI) confirmed that the "vast majority" of inner-city land in Kabul accommodating displaced persons is indeed state owned.

Even where residents possess customary tenure documents, having purchased the land from purported land owners, they continue to face tenure insecurity. Residents of Site 1 who claim to have purchased the land from a landowner who had proof of ownership reported they have had a dispute with another individual who claims to own the land and also has the title deed to it. This is against a background of a pre-existing land dispute between the alleged landowner (who sold the land to the current residents) and local authority members who claim it is state land that has been grabbed. As a result, despite possessing customary tenure documents, residents may still face evictions in the future.

Inability to build adequate shelters and infrastructure

Landlords who claim to own the land in the KIS often actively prevent the settlements' residents from building adequate housing or infrastructure in KIS, as they have an interest in developing the land for profit. According to the KIS Taskforce profiling exercise, more than 52% of households residing in the settlements listed water supply as an immediate priority, and 83% stated that access to permanent housing was their key development priority. In Site 3 of NRC's research, residents bring drinking water from 1km (which does not meet the Sphere Minimum Standards for emergencies - 500m) as the landlord has barred construction of water points.

Regardless of land ownership, research shows that for settlements within the city, residents are often

forbidden by the government as well as landlords from building permanent shelters.

In either case, residents of KIS are left in a precarious living situation – especially during the winter months when they are more exposed to the elements. Without money to find alternative land, and with poor prospects of being allocated land by the government – they residents remain stuck in a site where they cannot build adequate housing or basic infrastructure.



NRC's ICLA and Camp-management staff talk to Community Leaders to understand the tenure security issues facing IDPs in informal settlements. Photo: NRC/Enayatullah Azad

Eviction threats and inability to relocate

In two out of the three sites of NRC's study, residents have been threatened with evictions, often multiple times. Many residents of informal settlements have no form of tenure agreement; and those that do have statutory or customary agreements are still living on disputed land. Eviction threats arise primarily because of landowners' plans for future development of the sites – which correlates with their general lack of interest to issue written or even verbal tenure agreements.

Despite their insecurity of tenure and inability to build sustainable homes and lives for themselves in their current locations, displaced persons residing in these settlements do not plan to move to another location unless they are allocated land, as the potential cost as well as decreased access to livelihoods are major barriers to relocating.

The difference between Site 1 of NRC's study – where residents have purchased land and the other two sites is stark. While in Site 1 residents have built

permanent structures and even set up a school for their children, the residents in Site 2 and 3 are living day-by-day in fear of evictions, are prevented from upgrading their shelters, and generally do not enrol their children in school on the assumption that they may have to leave any day.

Caught between private interests: How and why landowners use informal settlements to further their own interests

For lawfully obtained and owned private land, development for profit would seem to be a clear preference over allowing the creation of informal settlements. Respondents in NRC's research suggested two main incentives why land owners would favour the creation of informal settlements rather than development on their land: either the landlords are 'sitting' on the land while amassing enough financial resources to develop it; or they are currently out of the country or city, and have no interest in developing the land at the present time.

In the meantime, landowners can collect a tidy income from rent. Monthly rent from informal settlements in some cases would be enough to serve as a disincentive to developing land. In most settlements investigated in the study the monthly rent for each family ranges from between \$20 to \$30. So, accounting for the KIS Taskforce profiling estimate that the average number of households per settlement is 190, on average one landowner could generate approximately \$57,000 of rental income per year. Even if the rent charged is significantly lower – such as in Site 3 of the NRC study – residents suggest that the landlords' main interest in having them stay was to generate revenue from charging rent.

In those cases where landowners are unable or have no interest in developing the land at present, they may therefore prefer to keep the displaced families on the land to 'protect' it from being 'grabbed' by anyone else in the meantime. This appears to be the case for Site 2 of the NRC study where residents reported that after having been on the site for four years without being approached by

any alleged landowner, two men came to the site in August 2018, claiming ownership. They said they planned to build parking or apartments, and therefore asked the residents not to build anything else on the land, and to be ready to vacate the site in October 2018. The same apparent landowners have stipulated that the residents can stay for free until the project starts, which means they continue to live in insecurity, not knowing when they will be evicted.

In cases where the land is contested by two parties, or the landowner is unable to truly prove ownership, the presence of displaced families on the site may also be used to protect and further his claim to the land. The lack of inventory of state land gives private individuals the opportunity to 'grab' land by allowing displaced families to occupy it for rent. These 'land-grabbers' prefer to obtain rent from displaced families over development, as the latter would expose them to the authorities and may risk legal action. However, it is of course the displaced families who remain caught in the middle with no alternatives to relocate, unable to build adequate infrastructure, and often unable to secure tenure for the land on which they reside.

Conclusion:

The above illustrates how purported landowners exploit both displaced persons and the ambiguities, complexities and weaknesses of the Afghan legal framework for determining land ownership. With little support from authorities for the presence of displaced communities, this imbalance of power makes it all but impossible for displaced families to obtain any kind of tenure security and durable solutions to their displacement at the current time.

NRC recommendations:

- **Recommendation 1:** The Government of Afghanistan, in particular the Afghan Land Authority (ARAZI), needs to put in place measures to ensure that inhabitants of informal settlements can access security of tenure documents to the land/house they occupy as enshrined in the Occupancy Certificate and Afghanistan Land Policy.
- **Recommendation 2:** The Government of Afghanistan should put in place plans to promote and upgrade basic services in informal settlements and/or allow development and humanitarian actors to do so – as provided by the Afghanistan Land Policy.
- **Recommendation 3:** Dedicated implementation support to government authorities – in particular Municipalities, the Ministry of Refugees and Repatriation (MoRR), and the Land Authority (ARAZI) is required to ensure their ability to implement relevant policies.
- **Recommendation 4:** The Afghanistan Housing, Land and Property Taskforce should put in place a forced eviction monitoring system to collect, analyse and disseminate information on forced eviction cases to support timely and proactive advocacy.

Links to other relevant information:

NRC Afghanistan: www.nrc.no/countries/asia/afghanistan

Internal Displacement Monitoring Centre: www.internal-displacement.org

Contact: anthony.neal@nrc.no – Advocacy Manager, NRC, Afghanistan