



Policy brief #2

The right to work in a context of urban displacement

Van Vollenhoven Institute for Law, Governance and Society (VVI)
and Groupe Jérémie.

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Colophon

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Policy brief #2

The right to work in a context of urban displacement

Executive summary

Access to work is often far from guaranteed and may be hindered by various factors. This is certainly the case in fragile state contexts with large-scale urban displacement and high levels of informality. This policy brief shows strategies used by urban Internally Displaced People (IDPs) to get access to work and the challenges they face. It is argued that weak social capital is the prime limiting factor of IDPs in being able to claim their right to work. Family ties, place of origin, and ethnicity are decisive factors that influence the access to job opportunities. As much as having a social network can help someone in finding a job, as disadvantageous such close affinity can be at the moment labour relations become tense. For NGOs and policy makers interested in issues around labour and the social integration of displaced in urban contexts, it is worthwhile to note that support to strengthen one's social capital in the first months of displacement could be a good strategy to empower people and to work towards more durable solutions for the urban displaced. This brief is based on findings from research carried out in the city of Bukavu, in the east of the Democratic Republic of Congo (DRC).

Introduction

The right to work is recognised as one of the essential rights of every human being by the 1948 Universal Declaration of Human Rights and recognised in international human rights law under article 6 of the International Covenant on Economic, Social and Cultural Rights.¹ Obtaining employment is fundamental for one's livelihood strategies, especially in urban settings where people cannot rely as much on agriculture to make a living as they are used to in the rural settings from where they originate. In the Congolese context, IDPs are often unexperienced and unfamiliar with the principles and pitfalls of the (urban) labour market. Prior to displacement most of them have been self-employed within the agricultural sector. In a population-based survey, Vinck et al. found that in most territories in the east of Congo around 50% of the population lives primarily from agriculture, whereas this was only 6% among respondents in Bukavu.²

The east of the DRC is characterized by high levels of population mobility, due to general migration patterns and decades of protracted conflict and insecurity. Bukavu is one of the

¹ Article 6 was further elaborated under General comment no. 18: The Right to Work, and General Comment no. 23: The right to just and favorable conditions of work. These general comments are available on: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f18&Lang=en and http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f23&Lang=en, viewed on 04.12.2017. The *Guiding Principles on Internal Displacement*, Principle 22 (b) also set out that IDPs must be ensured the right to seek freely opportunities for employment and to participate in economic activities (<http://www.internal-displacement.org/assets/publications/Tools-and-Frameworks/199808-training-OCHA-guiding-principles-Eng2.pdf>, viewed on 29.11. 2017).

² http://www.peacebuildingdata.org/interactivemaps/drc-polls#/?series=Latest&indicator=17_5_4.

urban centres in the east that attracts high numbers of displaced in search of security. People come to the city with hopes of rebuilding their lives and gaining stability. For this, they first resort to the support of relatives and friends that can facilitate access to job opportunities. However, cities such as Bukavu, are also part of a context of generalized poverty with high rates of unemployment. Displaced people who are not prepared to face the multiple and unfamiliar challenges of urban life often have a hard time in claiming their right to work. As a consequence of this struggle, their right to the city also becomes difficult to materialize.

This policy brief explores some of the strategies used by urban IDPs in Bukavu to find a job, and to address the rights violations they may face at their workplace. Finding a job in the new city is clearly among the biggest challenges IDPs face. The right to work that is guaranteed in the Congolese Constitution can hardly be seen as an effective right to which the state contributes. This is not much different for other fragile settings.

“Work is a sacred right and duty for every Congolese. The State guarantees the right to work, protection against unemployment and an equitable and satisfactory pay, thus ensuring the worker as well as his/her family of a life in accordance with human dignity”
(Article 36, 2006 Constitution)

This is the second of four policy briefs that aims to shed light on IDPs in urban settings. The document is based on research carried out in Bukavu. Our research has shown that urban IDPs are often more vulnerable and therefore have particular needs that members of the host community do not have (Jacobs & Kyamusugulwa, 2017). Without claiming generalizations, we are convinced that many of the findings are relevant to understand the situation of urban IDPs in other countries across the globe. Vignettes provided below are drawn from interviews with displaced and non-displaced respondents in Bukavu.

On DRC: Gross national income per capita: \$680 Population living below income poverty line, PPP\$1.90 a day: 77.1% Human Development Index rank: 176 (out of 188) http://hdr.undp.org/en/2016-report
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Accessing employment in fragile cities: getting connected

“Having work means good luck for those who wake up well!”

In a context where the labour market is predominantly accessed through informal channels, social connections represent a fundamental element to have access to work.

“For a job solicited by both a brother and a stranger, the choice is clear: I give to my brother”

In Bukavu, like in many other places, jobs are found primarily through informal channels. Recommendations from ‘intercessors’ or ‘insiders’ are key. Logically, those who have many acquaintances have more chances to find a job, because they have more chances to be recommended. Getting to know new people is a recurrent daily exercise needed to secure

one's future. Social capital represents an important asset in which it is fundamental to invest. As newcomers to the city, IDPs are clearly at a disadvantage, as they seldom start their new lives with more than a couple of friends or relatives. With limited social networks, urban IDPs are obliged to accept low-paying jobs one day at a time (crushing stones, digging latrines, porter jobs). These jobs provide little to none livelihood security and are often regarded as inferior, by both the displaced and the longer-term residents. Being condemned to petty jobs, reinforces the cleavage between different socio-economic classes, influences the existing mutual perceptions and the self-esteem of the displaced. In order to circumvent these problems, assistance during the early stages of displacement -when social networks are underdeveloped- might prove to be fruitful.

Origin matters: family, provenance and ethnicity as a warranty

Social connections are important because employers prefer familiar faces. Family ties, geographical provenance, or ethnic affiliation can help in being recommended to potential employers. This is seen to be especially crucial for domestic work:

“The employer always cares to know the origin of the person, his family, his morality, for the security of his house, his children and his properties.”

Family ties are the most important of these factors. In the perception of many, family members with a business of their own are a guarantee to employment. There is a strong expectation or even moral obligation to recruit relatives in your business. Displaced often have few relatives in the city who are able to recruit them. This puts them in a vulnerable position. Long-term residents have more time and opportunities to accumulate capital in the city and to invest in a business than newcomers. Displaced, in comparison, have fewer relatives who are able to recruit them.

Other important factors are ethnicity and provenance. When an employer doesn't have any information about a potential employee, he usually relies on people with the same ethnic affiliation or origin. For some territories, ethnicity and geographical origin go together, but this is not always the case. When a single ethnic group is perceived as controlling particular segments of a labour market, other ethnicities have difficulties in accessing that segment. Such entrance barriers might not always be visible for outsiders.

“The people of that group are the big entrepreneurs in Bukavu. They only give work to applicants of their origin, according to the famous ‘collinisme’; that is to say: you have to belong to the same hill to get a job.”

A drawback for employers of this type of informal arrangements and moral obligations to hire particular people, is that candidates do not necessarily have the right skills or work compartment to perform the work properly. For some job seekers the informality of family ties could also be a disadvantageous as they fear not to be taken at their merits:

“I do not want them to identify me as their brother. They risk trivializing my work and instead of paying me all, can use family ties to absorb my dues.”

In some cases, disputes arose between employers and employees exactly because of the affinities upon which trust was built. Several respondents (both employers and employees)

expressed a fear that the other party would take advantage of the close affinity and behave in reproachable ways because they know that the importance of family, ethnic, or geographical ties will prevail, and their behaviour will be forgiven.

Alternative ways to access the right to work: technical skills, personal favours, and ‘soft drinks’

Other types of social connections that can facilitate the access to work are the relations with contacts. Someone who distinguished him/herself at work or at school can be remembered by colleagues, clients, employers or teachers for his/her merits, and will be recommended when a job opportunity pops up. In such relations, technical skills play a bigger role than in relations based on family membership, ethnic affiliation, and context of origin. In some cases, however, additional favours are requested in exchange for a recommendation or a job. Many female respondents testified of being asked for sexual favours in exchange for an employment. This actually withholds quite some women from seeking a job. For men, it often comes to ‘gifts’ and real bribes:

“To obtain work in Bukavu, you need some money for the ‘soft drinks’ for the employer”

Money is a critical condition for those who aim to start their own business. For this, people rely on the support of the family to receive a starting capital for a kiosk on the street or a sewing work shop for example. In other cases, money is required to adhere to a workers’ association. Membership of such an association can constitute an exclusive condition to be allowed to operate in specific sectors. Oftentimes, because of their socio-economic conditions, IDPs do not have that money available.

Violations of labour rights

In a context of a poorly inaccessible job market, where job opportunities are rare but at the same time vital, keeping one’s job becomes more important, at whatever costs it comes. This leads to cases of severe violations of the workers’ rights. Since most people enter a labour relation in an informal manner, formal contracts are rare. Trampled verbal agreements between employer and employee are a widespread and serious problem. There is a strong power imbalance that prevents people from taking steps towards achieving justice and standing for their rights. Without a written agreement, seeking justice is a bigger challenge. Not only salaries are not paid as agreed, but working conditions are harsh and degrading. At times, the employer allows himself to adopt behaviours that go beyond the labour relation and impair the dignity of the employee. The more the worker is determined to keep a job, the more he or she will accept such working conditions. This means that justice is not sought. Many of the consulted IDPs resigned to their fate and kept struggling on in their jobs despite the harsh conditions. Seeking justice was often not a real option.

“In case of violation of my labour rights, I must address the authorities according to the nature and extent of the problem. If my opponent is gentle, I can take him to the police to force him to restore my rights. But if I realize that I have to do with a brutal person, I must give up the file in order to avoid the worst.”

Conclusion and recommendations

In urban contexts, displaced people have more difficulties in obtaining access to work and claiming their rights than long-term residents. Firstly, displaced lack the dense social network that residents already have. Such a network is indispensable in finding a job. Secondly, connections that are helpful in obtaining employment are usually based on family ties, ethnic affiliation or geographical provenance. To some extent, the valuable connections that IDPs could draw on, are not to be found in the new urban setting in which they seek refuge. As a result, access to labour remains restricted for newcomers. Thirdly, vulnerable people in unequal power relations such as IDPs are exposed to requests such as sexual favours and bribes in exchange for a job. Not everybody is willing or able to respond to such requests. As a result, especially female IDPs tend to refrain from looking for paid labour and prefer to create their own small businesses, engage in day labour only, or simply stay at home without any source of revenues. To start a small business however, a social network is often needed to help gather the starting capital. If such a network is lacking to facilitate access to employment, it is often also not strong enough to provide such capital. The same goes for the adherence to a workers' corporation.

The right to work is a fundamental right recognised to every human being. For displaced people, this is even more important because only through the socio-economic integration in the new context they would be able to rebuild their lives after displacement and work towards a durable solution.

Displaced people also face more challenges in accessing justice when their rights are violated, especially when it comes to work. A job is so precious that IDPs are often ready to accept any conditions to keep it. In addition, contracts are often verbal and employees do not have any legal document to claim their rights. Employers may take advantage of the situation and feel free not to respect the agreement.

To contribute to durable solutions for the displaced, assistance in the early stages could focus on strengthening people's social network as this will better enable them to get access to the labour market and to make people more autonomous inhabitants in their new places of residence. If such strategies can be applied in the early stages of displacement -when IDPs are most disconnected- less long-term assistance will be needed.

In general, there is limited awareness among both employers and employees of the labour rights that apply. Interventions that raise awareness about this might be helpful, for instance about the importance of written contracts as a form of protection. Such interventions could refer to both national and international labour legislation without overlooking societal norms about ways in which people should behave towards each other.

Further reading

Jacobs, C., & Kyamusugulwa, P. M. (2017). Everyday Justice for the Internally Displaced in a Context of Fragility: The Case of the Democratic Republic of Congo (DRC). *Journal of Refugee Studies*. <http://doi.org/10.1093/jrs/fex025>