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Policy brief #3

The right to decent housing in a context of urban displacement and fragility

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

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Colophon

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Policy brief #3

The right to decent housing

Executive summary

People who flee their habitual residencies in search of security need to find a new shelter in displacement. Long-term and protracted armed conflicts can place a considerable burden on the urban centres that have better security conditions. This policy brief describes three types of housing arrangements that are sought after by urban Internally Displaced People (IDPs) in the east of the Democratic Republic of Congo (DRC). It is shown that upon arrival people seek refuge in host families, but quickly try to find a rental home soon after. On the longer term, only a small number of IDPs manage to purchase their own residential plot. Disputes about the borders of plots are common in the densely populated neighbourhoods that accommodate large number of IDPs. Such disputes are worsened by insecure tenure conditions and by contested and overlapping claims to land that can aggravate within a fragile context.

Introduction

The right to safe and decent housing is acknowledged in article 48 of the Congolese constitution and it is supported by the UN Guiding Principles on Internal Displacement (UNOCHA 2004: 9-10), as well as by article 11(1) of the International Covenant on Economic, Social and Cultural Rights.¹ Safe and decent housing is the prime need for people who flee their residencies in search of security. 87% of the 3.9 million Internally Displaced People in the Democratic Republic of Congo seek such shelter in host communities where they can place considerable extra burdens on the members of these communities (UNOCHA, 2017).

In a context of urban displacement with high pressure on available resources and services, there is a risk of tensions between long-term residents and newcomers. Residents are less willing to accept foreigners as competitors and are not always keen to welcome them. Once displaced people settle in an urban context, they are perceived as a threat by the local community. Because of an underlying will to protect their own belongings, opportunities, and lifestyle, residents may discriminate IDPs in access to services and resources, including housing.

IDPs who flee to Bukavu, a fast growing city in the eastern Democratic Republic of Congo, usually follow a three-stage process of settlement. Upon arrival, most people stay with a host family for a couple of days up to a couple of months. Subsequently, they seek their own rental accommodation. Ultimately, and only after considerable improvements in living standards have been achieved, people can sometimes take an important third step and buy their own residential plot. However, with each step, displaced face specific disputes and challenges that represent hurdles towards successful social integration.

¹ This was further elaborated under General comment no. 4: The right to adequate housing (art 11(1) of the Covenant and General comment no.7: The right to adequate housing (art.11(1) of the Covenant): Forced evictions. These general comments are available on: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fGEC%2f4759&Lang=en, and http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fGEC%2f6430&Lang=en, viewed on 03.12.2017.

This document elaborates on some of the challenges concerning housing faced by urban IDPs 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 respondents in Bukavu.

Stage 1: Arrival in the city

Upon arrival in the new city, most IDPs stay with a host family. Usually, these hosts are family members – close family, family-in-law or more distant relatives. Occasionally IDPs are hosted by people who have the same origin. Usually, such hosts have arrived at an early point in time and have gone through the same process of settlement. Family ties and a shared origin represent a guarantee for IDPs. Such persons have a moral obligation to host people from the same family or territory. IDPs usually settle on the outskirts of the city close to main roads leading back to their home communities. This is not only out of convenience, but these roads also function as communication channels for displaced to receive news about their home communities

Hosting arrangements usually do not last very long. Displaced people stay with the host family for periods that vary between a few days and a few years. After one year, the majority of IDPs have left these host families. The length of the period depends on the needs of the displaced but also - and especially - on the absorptive capacity of the hosting household.

“Towards the end of the second year, my cousin changed his attitude towards me. One day he decided to make me sit down to tell me that since he has three children now, the burden of providing shelter for me is proving too much now and taking care of me is no longer possible. He told me that I cannot continue to believe that I can organize my life from someone else's home. Then, the next night, he refused me entrance into the house.”

Disputes may arise because the newcomers represent an additional concern for host families that already struggle to make ends meet. The willingness of a host to receive people is often based on the host's own prior experience of displacement. Therefore, the hosts are able to place themselves in the newcomer's shoes and relate to difficulties newcomers have to face upon arrival. At the same time, precisely because they were displaced before, host families may lack the financial capacities to take care of the newcomers for longer periods of time. After a while, the head of the host family may no longer be willing or able to sustain the extended household and may decide to end a continued provision of shelter. Such an event is sometimes unexpected. It can be traumatic on its own and disrupting for already troubled IDPs.

A separation between hosts and IDPs oftentimes impacts not only on the housing conditions of an IDP but might also entail the erosion of the already weak social capital that an IDP can draw on in his search for employment opportunities. We further elaborate on this issue in policy brief #2.

Stage 2: A place to rent

After leaving their host family, urban IDPs usually move to an affordable rental home. Most IDPs prefer such arrangements over the hosting arrangements as it makes them less dependent, and because they feel embarrassed about putting too much stress on the hosts' household. Again, accommodation is usually found through family members (also relatives of the host family) or with the help of people with a shared origin. Usually these contacts have been living in Bukavu for a longer time and are more knowledgeable about suitable and affordable neighbourhoods. In case the IDPs are still financially independent their contacts may even facilitate the move by paying the deposit and the rental money for the first months. Family and/or people of the same origin, in such cases, represent an important support to the newcomers. It is indicative that even after the hosting period, most IDPs still resort to the same network of people -contacts from their home community- to take a next step towards more durable settlement. When these contacts also deplete *their* financial sources, and when no employment has yet been found, IDPs risk running into problems about unpaid rent, with - often unanticipated - forced expulsion from the rented house as a result.

In case the IDPs lack a relative who can absorb them inside their household, they are likely to end up on the street, forced to turn to the church for help, or turn to other acquaintances they got to know during their initial period in the new city. Such acquaintances are usually local chiefs or colleagues. This is why for many IDPs it is even more imperative to cultivate social connections since their arrival in the urban context. Especially in fragile contexts, social capital represents indispensable value in times of need and investing in it is fundamental.

Stage 3: Getting more durably settled

Sometimes, after considerable improvements in their socio-economic situation have been achieved, people may decide to buy their own residential plot. For displaced, this also speaks of their level of social integration. The decision to buy a house, in fact, not only depends on financial means, but it relies on the appreciation of the level of integration in the new society by both the IDP and the social surrounding. For an IDP, buying a house in the new city reflects the will to install him- or herself in the new context for a longer term. As such, the purchase of a plot strongly contributes to one's sense of integration and belonging in the city. This is strengthened by the social surrounding that usually no longer regards such people as displaced, who do not belong in the city. IDPs who are more willing to return in their place of origin once security is back, financial means aside, are less likely inclined to invest money in a house in the urban context.

Land property too is usually accessed through relevant social connections, especially through family ties, but brokers play a role as well. Relatives are seen as reliable and trustworthy connections to facilitate such important steps, especially if they live in the new city since a while.

"In 1990 I acquired this house. I bought it with the help of my little sister who lodged me and who masters the wheeling and dealing of buying houses in Bukavu."

Settlement in the urban context, however, is not always easy, especially when long-term residents are not willing to receive the so-called 'Honoka', the invaders from the mountains.

"The 'Honoka', those who come down from the villages, are used to wide open spaces. They think they will have plots in the city the size of the fields they left in the village."

Such resentments have to be understood in a context of rapid urbanization, with increasing pressure on the land and where available resources and services such as water, electricity and health care are not expanding at the same rate. Newcomers are then frowned upon as additional competitors over such resources, services, and employment.

Housing disputes in a context of fragility

Disputes about plot limits are quite common in Bukavu. Owners of a plot are obviously more concerned with claiming the boundaries of their plot than tenants of a house. A lack of clarity about the boundaries of a plot is to a large extent a result of a housing market in which most transactions take place in informal manners between seller and buyer, in the presence of witnesses of both parties, but without any formal registration at the government services. Obtaining formal ownership documents is an expensive and tedious process that most people prefer not to engage in. But without such formal ownership documents, boundaries are prone to be contested by neighbours. Sellers of a plot are not necessarily the rightful owners and plots might be sold to several buyers in parallel.

“Parcels are sold based on false documents and false measurements. It is when the constructions begin that one realizes that the dimensions are false. One can have, for example, a parcel of 8x12m on the documents, whereas it is 7x10m. There are also scammers who sell the same plot or house to 2 or 3 people.”

IDPs with limited historical knowledge about the ownership arrangements of a particular plot are easy victims of scammers. Once disputes arise, the lack of formal ownership documents hinders people to claim the rights they perceived to be secure.

Whereas house ownership is generally regarded to be one of the most secure tenure arrangements, this is not necessarily the case in a context of state fragility. In the absence of written documents, it is hard to establish where the original limit is located when disputes arise. Decisions by consulted authorities might be rather arbitrary, especially when some of them can be influenced by the mobilization of financial or social capital.

“It is also a problem between the people and the agents of the public service, especially of the Cadastre. Instead of asking the chiefs about the limits, they ask the neighbours and then they will just place the boundary marker at the place that was indicated by the requesting party.”

Housing disputes may shatter the relations with neighbours. In a fragile context, where social capital is a valuable asset, such disputes are a major issue. Even more so for IDPs who are already in short supply of social connections, as we set out in policy brief # 4.

Conclusion and recommendations

In each of the three stages of the process of settlement, IDPs are vulnerable to specific types of disputes. Upon arrival, they seek the support of their social network in order to be hosted. These host families, which have often barely escaped the uncertain settler phase themselves, are stretched to- or beyond their financial limits by the uptake of IDPs. This may lead to tensions between the host family and their guests and may end up in the expulsion of the IDPs, ruin the relations with relatives and ultimately reduce the possibilities of social

integration of the newcomers. In fact, family ties and provenance represent an important gate towards a wide range of opportunities in the urban context.

If urban IDPs rent a house, they need some financial stability through employment to regularly pay the monthly rent. Since most of times lease relies on a verbal agreement, displaced are left to the whims of their landlord.

Finally, when urban IDPs are able to purchase property, they are vulnerable to cheating and harassment, especially by long-term residents who are not willing to accept them. Land owners tend to favour their relatives when it comes to access to land and property, thereby excluding newcomers. Lack of knowledge about previous land transactions or the reputation of a seller make IDPs easy victims to scammers. A general lack of formal ownership documents makes it difficult for an outsider to assess the risks involved when buying a plot. Even if a plot is formally registered, somebody with money or contacts might still come up with a counterclaim that refutes the ownership that was perceived to be secure.

Access to housing in the new context is among the first steps IDPs need to take in order to reconstruct their lives in displacement. The precariousness of their tenure conditions affects their social integration, which is nonetheless among their most urgent needs. It is therefore recommendable to:

- Support the host families with specific assistance that will allow them to be able to take care of their relatives for the necessary time. Such families are often vulnerable because they have also been displaced before. Nonetheless, host families are a crucial point of reference and an extremely important support for IDPs in the period following their arrival. Such actors can facilitate access to housing and to further opportunities in the new city. It is therefore imperative to preserve the relation of the displaced with such families in order to facilitate their integration. At the same time, it is fundamental to improve the socio-economic well-being of the host families, to avoid any potential conflicts between newcomers and longer-term residents.
- Promote written rental agreements. Often, IDPs are not able to regularly pay the monthly rental and their exposure to the risk of expulsion only depends on the arbitrary decision of the landlord. Written contracts that include a clause about the right of the landlord to expel an insolvent tenant under certain circumstances and within a specified period of time should be stipulated. This will make the expulsion less unexpected, thus less traumatic. At the same time, this gives IDPs the time to search for another accommodation that is more affordable, or to turn to their families. Written contracts may also avoid additional conflicts with the landlord, since the expulsion would be foreseen and allowed by the contract. A contract should also set out the mechanisms to be used in case of conflicts.
- Ensure that official property documents are original, unique, compliant with the law, and recognised by the competent authorities. Every citizen must have access to such documents when purchasing a plot. Measure should be taken to facilitate such access in financial terms too. This could avoid land conflicts in urban settlements that arise when size and price of the plots are unclear, and when pressure on the available land is high.

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*.
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