

Land rights in Angola: poverty and plenty

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1. Introduction

This report forms part of a broader HPG research project that assesses the role of land tenure in conflict and post-conflict situations, and how humanitarian organisations tackle these issues in their programming. It aims to provide a basis for discussing how human rights and humanitarian organisations have responded to the principal land-related challenges in Angola, and sets these in the context of the broader problems facing the country as it makes the transition from emergency relief to a process of longer-term development.¹

Angola has a very low population density, and so there is no acute shortage of arable land of reasonable quality. While there are a few recorded cases of disputes over land between returnees in rural areas, these appear to be isolated exceptions. Nevertheless, Angola's experiences highlight the importance of ensuring that issues in the emergency relief phase are more closely integrated into longer-term planning.

Land rights in Angola tend to be treated primarily as a development issue, requiring reforms which can only be implemented in the longer term. Much of the focus of land rights programmes is therefore on legislative change and a strengthening of administrative and adjudicative capacities. The issue of land-grabbing in rural areas often also receives considerable attention, and some argue that it could become a potentially serious concern. However, most disputes over land rights are currently taking place in urban areas. The situation relating to land rights in Angola poses more complex problems than in other, comparable post-conflict societies, and needs to be seen in a wider political, social and economic context.

Land access, tenure and rights are cross-cutting issues that impact across a number of different sectors. In the humanitarian phase, land encompasses issues related to displacement and return, human settlements, agriculture and livelihood, economic development, environmental

protection, urban and rural planning, security, land mines and unexploded ordnance (UXOs) and justice and the rule of law. It also encompasses issues relating to women and children's rights, cultural and customary law institutions and the reintegration of former combatants into society.

In the development phase, land and property rights assume a critical importance as investment and economic activity resume. Like many other countries emerging from conflict, Angola has adopted a new economic model in recent years, based on encouraging private investment and a reduced emphasis on central planning. The market, rather than the state, is now regarded as the main engine of economic growth, and the concept of a 'right to private property', which was previously regarded with considerable suspicion, has been officially embraced by the authorities.

However, most land in Angola is held under customary title and people do not have documents proving their rights to it. In a context where large numbers of people have been displaced from their homes, in some cases for several years, and where official mechanisms lack the capacity to deal with adjudication claims in a fair and transparent manner, this poses a potentially significant challenge. Customary land tenure is currently not recognised by Angolan law, and this risks creating a gap between the formal legal situation and the reality facing most people living without formal tenure rights. Interviewees for this report believe that a failure to deal with this issue could jeopardise Angola's peaceful long-term development.

Forced evictions have become one of the most controversial political issues in Angola. According to a report by Human Rights Watch in May 2007, the government has 'forcibly and violently evicted thousands of people living in informal housing areas with little or no notice. In violation of Angola's own laws and its international human rights obligations, the government has destroyed houses, crops and residents' personal possessions without due process and has rarely provided compensation'.²

¹ As well as the published literature cited in this report the author is drawing on previous personal experience working on housing, land and property rights projects in Kosovo, Afghanistan, Colombia, Sri Lanka, Indonesia (Aceh), Liberia and Uganda.

² *'They Pushed Down the Houses', Forced Evictions and Insecure Land Tenure for Luanda's Urban Poor*, Human Rights Watch, HRW Index No.: A1907, 15 May 2007.

Many Angolans have squatted on land without official permission, often for many years. In some cases they may have bought this land in good faith from others who were illegally occupying it. Many people have lived all their lives on land which they do not have any official right to occupy, and they may have invested considerable sums of money in what they regard as their only economic asset.

Even when the authorities are prepared to tolerate unofficial occupations this can result in other conflicts. There may be inheritance disputes because people have died or families have grown while displaced from their original lands. In other cases, the authorities may have acquired land for public buildings or the construction of roads without informing affected communities. The lack of a comprehensive system of public records means that people may, therefore, start to rebuild houses, or plant crops, on land that has been designated for other purposes.

Like its counterparts in many other countries making the transition from humanitarian relief to development, the Angolan government sees the

establishment of a national cadastral record as a priority task. However, lessons from elsewhere show that, if the state does not have the administrative capacity to create a comprehensive, fair and transparent registration process, this could make things worse. Many humanitarian organisations have recognised this and are focusing their efforts on raising people's awareness about their rights in relation to security of tenure.

Most disputes and confrontations over land rights have taken place in the context of forced evictions in urban and peri-urban areas. This is mainly because the value of urban land has risen rapidly in Angola in recent years. There has been a large influx of people into urban areas, particularly to the capital, Luanda, and this has brought with it a new set of social and economic problems. Human rights organisations are devoting considerable effort to advising people facing evictions in urban areas about their rights and the issue of forced evictions. Problems are less acute in rural areas and, for this reason, some organisations are piloting projects there, which they hope to subsequently introduce in urban zones.

2. Overview

Angola is still suffering the effects of three decades of devastating civil war. The conflict killed up to one and a half million people and displaced four million more. The war also destroyed much of Angola's infrastructure and left a deadly legacy in the form of landmines, which have maimed an estimated 80,000 people. By the end of the conflict, in April 2002, it was estimated by the Food and Agriculture Organisation (FAO) that just 3% of arable land was under cultivation.³ More than two million Angolans were on the brink of starvation, and at least three million were receiving direct humanitarian assistance.

The UN Development Report currently ranks the country 161 out of the 177 countries on its human development index.⁴ According to the World Bank, approximately 70% of the population lives on less than two dollars a day, and the majority of Angolans lack access to basic healthcare. About one in four children die before their fifth birthday, mainly from malaria, diarrhoea and respiratory tract infections. The maternal mortality rate (at 1,800 per 100,000 births) is one of the highest in Sub-Saharan Africa, and three in five people do not have access to safe water or sanitation.

Yet Angola is Africa's second-largest exporter of oil and the world's fourth-largest exporter of rough diamonds. The country is also well endowed with agricultural resources. The government describes oil as the 'backbone of its economy', and the sector makes up 90 per cent of the country's exports.⁵ Diamonds account for most of the rest. Diamond sales reached approximately \$1 billion in 2005.

Two-thirds of Angola's 14.5 million people live in rural areas and subsistence agriculture sustains one-third of Angola's population, yet rural Angolans enjoy virtually no security of tenure and have little

incentive to invest in their lands.⁶ Most government investment is aimed at urban areas or infrastructure projects. This report argues that, unless the security of land tenure is strengthened, it will be difficult to ensure that Angola makes a sustainable transition from humanitarian assistance to equitable development.

2.1 Land rights and conflict

Land rights issues throw up a number of dilemmas in conflict and post-conflict societies, particularly during the transition from emergency relief to longer-term development.⁷ Disputes over land are often an underlying cause of conflict, and access to land can also be an obstacle to return.⁸ Where large numbers of people have been displaced from their land, often for considerable periods of time, uncertainty about land tenure relations can play a destabilising role in the peace, reconciliation and reconstruction process.⁹

Where populations are rapidly growing and land is being sub-divided, this can become an important source of tension, and it has been identified as a major underlying cause of many of the conflicts in Africa over the last two decades. A failure to address the issue may make it impossible for displaced

³ UN Food and Agricultural Organisation (FAO), 'Charting Angola's Future', newsroom, 23 April 2002.

⁴ *Beyond Scarcity: Power, poverty and the global water crisis, the Human Development Report 2006*, UNDP, http://hdr.undp.org/hdr2006/statistics/documents/hpi_1.pdf.

⁵ See Embassy of the Republic of Angola in Washington, <http://www.angola.org/economy.html>.

⁶ Jenny Clover, 'Land Reform in Angola: Establishing the Ground Rules', in Chris Huggins and Jenny Clover (eds), *From the Ground Up: Land Rights, Conflict and Peace in Sub-Saharan Africa*, African Centre for Technology Studies and the African Security Analysis Programme of the Institute for Security Studies, June 2005, <http://www.acts.or.ke/pubs/books/docs/ground7Land.pdf>.

⁷ Conor Foley, *Land Disputes in Eastern Afghanistan*, Norwegian Refugee Council, 2004; *A Guide to Property law in Afghanistan*, UN High Commissioner for Refugees/Norwegian Refugee Council, 2005; 'Housing, Land and Property Restitution Rights in Afghanistan', in *Improving International Peace Operation Responses to Housing, Land and Property Issues in Post-Conflict Countries*, Centre on Housing Rights and Evictions (COHRE), forthcoming; 'Afghanistan', in Scott Leckie (ed.) *Returning Home: Housing and Property Restitution Rights of Refugees and Displaced Persons, Volume II* (Ardsey, NY: Transnational Publishers, forthcoming).

⁸ See Leckie (ed.), *Returning Home*.

⁹ Scott Leckie, *Housing, Land and Property Rights in Post-Conflict Societies: Proposals for a New United Nations Institutional and Policy Framework*, UN High Commissioner for Refugees, March 2005.

people to return to their homes in safety and dignity.¹⁰ Obviously, issues related to land rights will be of crucial significance in agrarian societies, where land plays a crucial role in survival and social distinction.¹¹ Population density, the quality of the land and its economic value are all important factors in how serious such problems become.

Often, land is held under customary tenure and people have no documents proving their right to it. Official records may have been destroyed during the conflict or were never accurate to begin with. Conflict and displacement are often accompanied by a breakdown in law and order, which can lead to land-grabbing by armed groups and people with influential political connections. Conflict also leads to secondary displacement, and people who have been forced from their own homes may feel that they have no alternative but to occupy land that belongs to other people.

Families also often change during the period that they spend in displacement. They may have grown larger, leading to disputes about how to divide the land amongst themselves when they return. They may also have split due to death or separation, leaving widows and orphans whose rights may not be respected by male relatives. Ethnic or tribal differences can also be exacerbated by disputes over land, particularly if these same differences played a part in the conflict.¹²

Possession of land is often an indicator of class and position, so land tenure issues may be related to broader questions related to equity and governance. Patterns of landholding can also play a role in exacerbating conflicts, particularly where there is controversy about issues such as inequality or demands for redress of previous grievances. When a society concentrates ownership in a few hands, and leaves a large number of young men without access to sufficient land to earn a livelihood, this risks

¹⁰ Chris Huggins, 'Peacekeeping and HLP Rights in the Great Lakes Region of Africa', in *Improving International Peace Operation Responses to Housing, Land and Property Issues in Post-Conflict Countries*.

¹¹ Chris Huggin and Benson Ochieng, 'Paradigms, Processes and Practicalities of Land Reform in Post-Conflict Sub-Saharan Africa', in Huggins and Clover (eds), *From the Ground Up*.

¹² Ingunn Sofie Aursnes and Conor Foley, *Property Restitution in Practice, The Norwegian Refugee Council's Experience*, April 2005

creating conditions which can lead to conflict.¹³ Conflict can also stem from attempts to change land tenure relations, and may be provoked due to resistance to demands for reform.

During a protracted conflict (such as Angola's), a piece of private land could have been compulsorily expropriated by the government, granted to another individual, privately transacted between different individuals, abandoned by its owner, illegally occupied by another party, or sold, leased, exchanged, gifted, inherited or otherwise transferred to others. Such multiple transfers, using both official and customary law and documents, are common, making it difficult to determine who the legitimate owners are. Re-establishing a system of land tenure can, therefore, be a controversial task, and one which weak governments sometimes shy away from. Where official legal institutions, such as the police, courts and land offices, have been weakened, traditional law often fills the vacuum. However, these mechanisms may treat the concept of land rights and ownership quite differently to statutory law, which can lead to the development of parallel sets of land rights. Traditional dispute resolution mechanisms, particularly in rural areas, are often based on arbitration by village elders. Sometimes there will be a potential tension between these mechanisms and the official law. Reconciling these differences, particularly in the context of large-scale displacement when people are not physically present on their land can be a major challenge.

Where there is no functioning system of land registration and records have been destroyed or are incomplete, the establishment of a national cadastral record is often seen as a priority task.¹⁴ However, if the state does not have the administrative capacity to create a comprehensive, fair and transparent registration process, considerable care should be taken to ensure that this does not make things worse for the affected population. Such systems are vulnerable to fraud

¹³ Paul Richards, Steven Archibald, Beverlee Bruce, Watta Modad, Edward Mulbah, Tornorlah Varpilah and James Vincent, *Community Cohesion in Liberia, A Post-War Rapid Social Assessment*, World Bank, January 2005.

¹⁴ Lillianne Fan, *The Struggle for Land Rights in Post-tsunami and Post-conflict Aceh, Indonesia*, World Bank, Land Policies and Legal Empowerment of the Poor, 2–3 November 2006.

http://siteresources.worldbank.org/RPDLPROGRAM/Resources/459596-1161903702549/S3_Fan.pdf

and corruption, and can be used as a cover for land-grabbing. Most people know the borders of their own land, and that of their neighbours, even if they do not have the documents to prove it. But in situations where large numbers of people have been displaced, or where the land has physically altered during the period of displacement, attempts to draw up a new centrally-imposed system of land registration are fraught with difficulty.¹⁵

Often there will be problems ensuring that the rights of vulnerable groups, such as female-headed households, orphans or disabled people are respected by both official and traditional mechanisms. This can sometimes be exacerbated by attempts to impose 'Western models' of individual rights on societies which place more emphasis on duties and collective responsibilities. Many societies, for example, do not recognise the right of women to own land or property on equal terms with men, nor do they recognise a right to private property in the same way as Western countries or international human rights law. Where land is held in 'stewardship', or when ultimate ownership rights are vested in the clan or tribe, and the community accepts a collective duty to care for its 'weaker' members, care needs to be taken to ensure that attempts to introduce a 'rights-based' system do not do more harm than good.¹⁶

Conflicts often accelerate the drift of populations towards urban areas, and this can make land rights

in urban and peri-urban areas a pressing social issue. A sudden influx of people from rural areas can drive up rents and increase the value of land in urban areas. People often establish irregular settlements without official permission, complicating urban planning and raising issues to do with environmental degradation, social services and crime. The arrival of large numbers of international aid workers can also inflate property values.

Policy-makers, including national and international relief agencies, often face a choice between helping people to regularise their status and improving the conditions in which they are living, or encouraging them to return to their original homes. Concentrating efforts in the urban areas to which people have moved risks creating a 'pull factor' encouraging more people to come to already over-crowded areas. Alternatively, focusing on rural areas to encourage return implies providing aid not to where people actually are, but to where external organisations would like them to be. This is a hugely significant strategic decision, with far-reaching implications for the rest of the intervention. It is also likely to impact on issues such as human settlements, urban and rural planning, agriculture and livelihoods, economic development and environmental protection. Without a clear strategy towards land rights, it is impossible for humanitarian organisations to know on what their strategies should be based.

¹⁵ Liz Alden Wiley, *Land Rights in Crisis: Restoring Land Tenure to Afghanistan*, Afghan Research and Evaluation Unit, Kabul, March 2003.

¹⁶ See, for example, Judy Adoko and Ian Levine, *Land Matters in Displacement: The Importance of Land Rights in Acholiland and What Threatens Them*, CSOPNU, 2004.

3. Land tenure, governance and conflict in Angola

One important difference between Angola and other conflict and post-conflict states is the absence of any straightforward competition for scarce land. Angola has one of the lowest population densities in the world, at 8.6 people per square kilometre, according to the World Bank.¹⁷ This is far lower than many other countries which have experienced comparable conflicts. Rwanda, for example, has a population density of 343 people per square kilometre.¹⁸ The land is also fertile. Before the war, Angola was a net exporter of food. Angola was once the fourth-largest producer of coffee in the world, and the third-largest producer of sisal. Cotton, tobacco, oil palms and citrus fruits were also grown.¹⁹ Other staple crops included cassava, maize and sorghum/millet. Potatoes are still an important crop, and cattle are raised in the central plateau and the southern provinces of Cunene, Huila and Namibe.

Two-thirds of all Angolans still live in rural areas and earn their living from agriculture. However, there has been a very large movement of people from rural to urban areas, and many peri-urban areas were rural/agricultural only a decade or so ago. According to some estimates, the population of Luanda has doubled in the past ten years, from around two million in the mid-1990s to around four million today. It is predicted that the city will reach seven million by 2010.²⁰ Many of these people first came to the city to escape fighting in rural areas, but urban migration is continuing for economic reasons as the oil and construction industries develop.²¹ The increasing urban population is generating a strong demand for land and housing in the cities. Most settlement and housing plot acquisition has been through the informal land market, and only a small percentage of settlers have acquired full legal title to the land they occupy.

In 2003, the government established a new Ministry of Urban Development and Environment. This was

followed by the establishment of a National Reconstruction Office in 2005 to oversee post-war rebuilding. This reconstruction has included the forced eviction of thousands of people from informal settlements. These evictions have made the issue of urban land rights a major political concern, and much of the research into land rights has focused on urban tenure. To set these issues in the context of Angola's transition from humanitarian relief to development, the following sections will detail the humanitarian challenges that Angola faced and the measures taken by the Angolan government itself to tackle land issues in the context of substantial economic reform and governance challenges. This will be followed by an analysis of the efforts of national and international relief agencies in addressing land-related issues.

3.1 Humanitarian challenges

According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), at the height of the emergency in 2002, more than two million Angolans were on the brink of death, through malnutrition and disease, and at least three million were receiving direct humanitarian assistance.

The situation stabilised during 2003 and humanitarian agencies gained access to all affected populations. In its 2004 Consolidated Appeal for Angola, the UN noted that more than 3.8 million war-affected Angolans had resettled or returned to their areas of origin during the previous year. Some 70% of these returnees resettled without any aid from local authorities or humanitarian organisations, and concern was expressed that the conditions they faced were below internationally accepted standards. A report compiled by OCHA stated that around half a million people had been temporarily resettled in camps for internally displaced persons (IDPs), while 400,000 were staying with host families in towns and cities and 350,000 remained refugees in neighbouring countries. 'Meanwhile, resident communities have faced growing levels of vulnerability, especially in areas difficult to access. Lacking basic social services and severely affected by the war themselves, they struggled to cope with the size and speed of returns. Unless support mechanisms are established in time, entire rural communities could quickly fall back into extreme vulnerability and dependence'.

¹⁷ World Bank, 2006.

¹⁸ Ibid.

¹⁹ Clover, 2005.

²⁰ Development Workshop, *Terra Firma, Urban Land Reform in Post-war Angola*, Occasional Paper No. 5, 2005.

²¹ Amnesty International, *Angola: Lives in Ruins, Forced Evictions Continue*, AI Index: AFR 12/001/2007, 15 January 2007.

The report also stated that: 'United Nations agencies and NGOs, in close consultation with the Government, will provide emergency assistance during 2004 to more than one million vulnerable people, supporting their efforts to achieve self-sufficiency. At the same time, humanitarian partners will work to increase the delivery of social services aimed at providing dignified living conditions for more than 2.5 million people and strengthening their communities. The plan will serve to bridge the gap between emergency and recovery, based on rights enshrined in the Millennium Declaration and in the Angolan Constitution.' It requested \$262 million, about half of which was earmarked for food distribution.

In March 2005, a report by Human Rights Watch claimed that the conditions facing returnees were still dire. It noted that families were returning to devastated communities and settling on land that was heavily mined. It also claimed that, in some parts of the country, the Angolan authorities were harassing, extorting and sexually abusing returnees who did not have identity cards. Nevertheless, international organisations had begun to significantly reduce their activities in Angola by this stage. The relief effort was intended to consolidate support for the peace process, but then phase out rapidly as the country recovered. One USAID mission suggested that assistance should be cut by half during 2003, and half again following the harvest in early 2004. This suggested a transition from emergency to development over a three-year period.

A flash appeal, for \$3.5 million, was launched by the UN in April 2005 following a suspected outbreak of Marburg viral hemorrhagic fever (VHF) in five provinces, but Angola has otherwise been omitted from the UN appeal process since that time. A cholera outbreak in 2006 also led to the provision of some humanitarian assistance and caused some aid agencies to delay their withdrawal from the country. USAID provided emergency food aid worth \$30 million in 2005, but reduced its aid to \$15 million for 2006, including a \$2.2 million grant to work on land tenure and economic policy, and \$143,000 in grants to community development groups and human rights projects. The British government's Department for International Development contributed £5 million to Angola in 2006/2007, mainly to support projects related to more equitable use of resources, greater participation in government and healthcare. The European

Commission also contributed substantial sums towards humanitarian relief, as did non-EU countries such as Norway. However, all Western donors have been reducing their support over the last two years.

Individual UN agencies continue to work in the country, but with a scaled back programme of activities, and OCHA has closed its Angolan office. A number of humanitarian NGOs also remain active, and their activities will be discussed further below. The World Bank continues to fund a number of humanitarian projects, including a demobilisation and reintegration programme for former combatants, an emergency multi-sector recovery project and a social action fund. However, there is broad consensus that Angola has now moved beyond the emergency crisis phase.

On 26 March 2007 UNHCR officially marked the end of its repatriation programme for Angolan refugees, and announced that it was scaling back its activities. According to the agency, the return and resettlement of refugees and IDPs has proved durable. 'Securing the future of the returnees – as well as the millions of internally displaced who have come home – is a long-term development need that is beyond the resources or mandate of UNHCR. The government and its development partners are expected to take the lead in rehabilitation and reconstruction efforts as these programmes proceed', said a spokesperson. Future activities would focus on the continued protection needs of refugees from other countries inside Angola.

Other UN agencies that still have a presence in Angola include the Office for the High Commissioner for Human Rights (OHCHR), the UN Children's Fund (UNICEF), the World Food Programme (WFP) and the Food and Agricultural Organisation (FAO). OHCHR has a comparatively large presence, but this is largely for historical reasons, when it was used to maintain some form of UN presence in the country after the withdrawal of the peacekeeping mission. Those humanitarian organisations that remain in Angola are increasingly working on rights-based programmes, some of which have a focus on land rights.

3.2 The political and legal framework

Land was regarded as a common resource in pre-colonial Angola, with a system of communal possession in which any member of the community

had the right to cultivate parcels of land occupied by the community.²² Under Portuguese colonial rule, land in the north-west of the country was gradually appropriated, mainly to establish coffee plantations. In the aftermath of the Second World War, the price of Angola's principal crops – coffee and sisal – jumped dramatically, and the Portuguese government began to reinvest some profits inside the country. Portuguese citizens were encouraged to emigrate to Angola, where planned settlements (*colonatos*) were established for them in rural areas. At the height of the colonial period, 300,000 colonial families occupied approximately half of Angola's arable land.²³

Angola gained independence from Portugal in November 1975, prompting a massive exodus of Portuguese settlers. Thousands of plantations were abandoned, and were promptly 'nationalised' by the new government.²⁴ According to the independent Constitution:

All natural resources existing in the soil and subsoil, in internal and territorial waters, on the continental shelf and in the exclusive economic area, shall be the property of the State, which shall determine under what terms they are used, developed and exploited ... Land, which is by origin the property of the State, may be transferred to individuals or corporate bodies, with a view to rational and full use thereof, in accordance with the law ... The State shall respect and protect people's property, whether individuals or corporate bodies, and the property and ownership of land by peasants, without prejudice to the possibility of expropriation in the public interest, in accordance with the law ... Any nationalization or confiscation carried out under the appropriate law shall be considered valid and irreversible for all legal purposes, without prejudice to the provisions of specific legislation on re-privatization.

²² Clover, 2005.

²³ Ibid.

²⁴ Tony Hodges, *Angola: From Afro-Stalinism to Petro-diamond Capitalism* (Bloomington, IN: James Curry & Indiana University Press, 2001).

This meant that the state became the owner of lands that were not definitively privately owned. Abandoned private land could be appropriated 'because of the unjustified absence of the proprietor for more than 45 days'.²⁵ However, the legal procedures surrounding such appropriations were unclear, and in practice many people simply seized abandoned land and properties for themselves.²⁶ Sometimes these were the original owners of the land, who had lost it to the Portuguese colonists. In other cases they were landless or homeless people displaced from their homes by fighting elsewhere. Often, they were people connected to the dominant political and military group in the area, who took the lands as 'spoils of war'.

After 1975 individuals were no longer able to buy private land, but were instead granted 'surface' or 'possession' rights, which meant that they had the exclusive right to use the land, although it formally belonged to the state. These provisions were included in Angola's Civil Code, inherited from colonial times, which remained the legal framework governing land rights until 1992, when a new constitution was adopted, together with the country's first law on land since independence. This was adopted as one of a number of legislative measures passed in the few months before the 1992 elections. The Land Law 1992 (Law 21-C/92) based itself on the former colonial cadastral record, which has not been updated since independence, and tried to restore some order to rural land relations. There was little public debate, however, and it was approved without much scrutiny. The country was still at war and the MPLA retained a monopoly of power in the areas that it controlled. Angola's legislature was still unelected and civil society practically non-existent at the time.

The law's preamble stated that local community land rights would be protected, and recognised some different forms of tenure. However, it remained heavily based on the old ideals of state central-planning principles, requiring, for example, that land conceded by the government must be 'put to effective use', and retaining the right to subject production to the 'requirements of national development.' The attempt to make security of land tenure dependent on land use was based on a

²⁵ Clover, 2006.

²⁶ Interviews conducted during the research in Luanda, Kuito and Huila, March 2007.

general hostility towards both the concept of private ownership and the social and economic position of rural smallholder producers, a hostility shared by many of Africa's post-colonial governments. Similar provisions, which attempt to boost agricultural production through coercion, can be found in the early land laws of a number of other African countries.²⁷

The law also failed to include customary land rights in rural areas, or the rights of those living in informal settlements in urban and peri-urban zones, and was unclear about the legal status of communal land. Urban land issues were also almost completely ignored, despite huge population drift to the cities. One observer concluded that the law 'was not rooted in any formal, written policies that might have explained the priorities to be promoted through land use, tenure or transactions ... it was not so much a land law as a set of regulations for access and titles'.²⁸

Perhaps the biggest single weakness of the law was its failure to acknowledge customary practices and the role of the village elders (Sobas) in adjudicating on disputes. Customary law often expands during a conflict, to fill the vacuum caused by the weaknesses of the official legal institutions. This can lead to a growing gap between 'legality and legitimacy' when the majority of land adjudication decisions are made outside the formal system. Many of the 1992 law's provisions were not enforced and it soon became clear that the legal framework it provided was inadequate.

There were discussions about a new law between the Ministry of Agriculture, the FAO and the National Directorate of Territorial Planning, the body responsible for issuing land titles. This resulted in a series of amendments to the law. A land titling project was also started which, in 2001, began issuing deeds to some communities, based on their customary rights. At the same time, President José Eduardo dos Santos appointed his own advisor to prepare a new draft land law in a process which paralleled the work of his own ministry, and may have been intended to undermine it.²⁹

²⁷ See *A Guide to Property Law in Uganda*, UN-Habitat, 2007.

²⁸ Clover, 2005.

²⁹ *Ibid.*

In December 2001 an ad hoc Land Commission was formed to combine the two drafts, which eventually emerged as the draft Land Act and draft Territorial Planning Law in July 2002, three months after the formal end of the war. The government announced a three-month period for public consultation on the draft laws, and this provided a rallying point for civil society groups. A national network of NGOs, Rede Terra (Land Network), was formed in August 2002, and there was strong pressure to extend the deadline before the laws were finalised.

In December 2003 the Cabinet approved revisions to the draft Land Act, which included some improvements such as the recognition of the traditional collective rights of rural communities, but also some measures which could weaken the protection of people's rights. The new Act was approved by parliament in August 2004, and was finally passed into law that December as the Land Law and the Law of Territorial and Urban Management. Although many land rights activists have expressed disappointment with some of the law's provisions, most people interviewed during the research visit stated that it does at least provide some basis for protecting people against the worst excesses of arbitrary expropriations and evictions.³⁰ Many organisations are now concentrating on disseminating its provisions as widely as possible, so that people at least know their most basic rights, while continuing to advocate for amendments and improvements.

According to the 2004 land laws, the State can only expropriate land for specific public use, and it must declare this purpose when it does so. Anyone whose land is expropriated for public use has a right to compensation. Where the state grants land concessions for urban development projects it has a legal duty to publicise this widely. Any infrastructure project which may have a significant social or environmental impact must be subject to an impact assessment, which must include hearings with the local population affected. These specific requirements reinforce the general principle in Angolan law that public administration must provide adequate notice to people whose rights are likely to be affected by its actions.³¹ While these provisions, if implemented, should provide people with more

³⁰ Interviews in Luanda, Bie and Huila, March 2007.

³¹ For a more detailed discussion see *'They Pushed Down the Houses'*.

procedural protection against forced evictions, a requirement that everyone must complete the official process of registering their land and securing title within three years has been greeted with dismay as entirely unrealistic.³²

The law places the onus on individual citizens to seek regularisation, and states that irregularly occupied land may be subject to forcible requisition after the three-year period. Angola's official bureaucracy is slow and inefficient and lacks administrative capacity. Many Angolans are illiterate and most do not have formal identification documents, either because they never had them or because they lost them during the war. Without a massive public awareness campaign, it is difficult to see how this proposal can be implemented. Human Rights Watch has concluded that:

*Unless the Angolan government takes deliberate steps to approve the remaining regulations and prioritize resources to ensure effective land registration for all those requiring regularization, insecurity of tenure will continue to be prevalent in Luanda and the city's urban poor will remain vulnerable to forced evictions such as those described in this report.*³³

The government has begun a dialogue with some NGOs over the problem of the vast number of people living in urban and per-urban areas whose settlements currently lack any legal status, and has promised that issues such as consultation, the establishment of clear rules for expropriations and compensation levels can still be addressed in by-laws that have yet to be published. However, serious concern remains that, given that the vast majority of Angolans currently live on land to which they only have customary rights, an attempt to enforce the law's provisions could lead to widespread and serious social unrest.³⁴

3.3 Economic reform and governance issues

The issue of land rights also needs to be seen in the broader context of economic reform and

³² Interviews in Luanda, Bie and Huila, March 2007.

³³ See *'They Pushed Down the Houses'*.

³⁴ Interview and roundtable discussion in Luanda, March 2007.

governance. The only democratic elections in Angola were held in 1992, but the polls were abandoned after the first round of voting, giving the ruling MPLA an absolute majority in parliament. Although opposition deputies currently hold 43% of parliamentary seats and substantive debates do sometimes take place, in which government officials are called to respond to question-and-answer sessions, few mechanisms exist to check the power of the MPLA majority or defeat legislation supported by the executive branch.³⁵ The president, dos Santos, cannot be expelled from office by a vote of no-confidence or censure. The executive appoints the prime minister and all other government ministers, who in turn cannot be dismissed by parliament. Although parliament has gained a limited role in discussing and scrutinising the budget and national plan in recent years, its financial oversight is limited.³⁶ Although the MPLA abandoned its ideological commitment to Marxism-Leninism at its third congress in late 1990, many believe that it has not shed its authoritarian attitudes and practices. The party has a 'cell structure' that reaches down into local communities, as well as workplaces. The party also still oversees ministries, local councils and various organisations and important policy discussions are not taken in parliament or within ministries, but within the MPLA's own structures.³⁷

The combination of a long period of first colonial and then single-party rule, the pressures of war, huge inequality and then a sudden influx of vast wealth have also impacted on Angolan society in ways that have encouraged the development of a corrupt, clientelistic, non-transparent and authoritarian culture. Angola's gross domestic product grew by almost 15% in 2005, and predictions for 2006 ranged from the same again to just under 30%. This expansion has been almost entirely due to the huge boost in revenue that the Angolan government has received from its exports of oil and diamonds, and the substantial influx of foreign investment that this has also stimulated. Government control over the economy has given it

³⁵ US Department of State, 2006 Country Reports on Human Rights Practices, Angola, 6 March 2007, <http://www.state.gov/g/drl/rls/hrrpt/2006/78718.htm>.

³⁶ Ibid.

³⁷ Inge Amundsen and Cesaltina Abreu, *Civil Society in Angola: Inroads, Space and Accountability*, CHR Michelson, Institute, 2006, <http://www.cmi.no>.

scope for patronage and the buying off of political opponents. Sonangol and Endiama, the national oil and diamond companies, have been described as functioning almost as 'states within the state'. The official bureaucracy is large, and many consider the number of government employees to be excessive, while the structure of the economy encourage rent-seeking and bribery.³⁸

Prior to 1992, the only 'mass organisations' tolerated by the government were controlled by the MPLA. Their primary role was to help legitimise the government in areas of the country where it exercised authority.³⁹ The only independent voices came from a number of church-based organisations. The constitution was changed in 1992 to allow NGOs to register, although the government retained the right to monitor and direct their activity. An influx of foreign humanitarian NGOs opened up political space for independent civil society organisations to emerge, and these have grown in number and influence since the end of the war. Religious and secular NGOs have formed effective partnerships on issues such as peace-building and human rights, often with international support. Given the weakness of Angola's formal democratic institutions, these organisations are playing an increasingly important role in holding the executive to account.

In 2004, the government introduced a new Law on Associations, which was mainly aimed at regulating the activities of NGOs. It specifies that NGOs are obliged to abstain from 'political and partisan actions', and makes this conditional on their employment of expatriate staff. It also demands detailed reporting to the government's Humanitarian Aid Coordination Technical Unit (UCTAH). The decree states that the role of NGOs is to be partners of the government and its institutions, in projects and activities determined by the government. Some observers worry that this might lead to greater restrictions on NGOs' activities.⁴⁰ It is often difficult for foreign aid workers to obtain work visas, and some see this as a sign of government suspicion, although such bureaucratic delays are common in many other aspects of Angolan society.⁴¹ According to the US Department of State, more than 100

international NGOs operate in Angola, with approximately 350 domestic NGOs. The government's own directory of NGOs lists 97 international, 78 national and 15 church organisations.⁴² There are probably more national NGOs than this, especially at the local level.

3.4 Human rights and humanitarian organisations in Angola

OHCHR has a comparatively large presence in Angola, and the International Committee of the Red Cross (ICRC) is also active in the country. OHCHR has worked to strengthen the Ministry of Justice's provincial offices and also to support the newly-created Office of the Human Rights Ombudsman. Both OHCHR and ICRC have conducted training courses for government officials on international human rights and humanitarian law.

Many international donors continue to support NGOs as they believe that this is one of the more effective ways to ensure that aid is used where it is most needed, and that it also contributes to the strengthening of governance and civil society.⁴³ The Norwegian government, for example, is currently supporting the work of a number of human rights NGOs including those most active in land rights issues. These include Accao para o Desenvolvimento Rural e Ambiente (ADRA), Associacao Justica, Paz y Democracia (AJPD), Development Workshop (DW), Mãos Livres, Norwegian Church Aid (NCA), Norwegian Peoples Aid (NPA) and the Norwegian Refugee Council (NRC).⁴⁴

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³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Interviews conducted in Bie province, March 2007.

⁴² US Department of State, 2006 Country Reports on Human Rights Practices, Angola.

⁴³ Interviews in Luanda, March 2007.

⁴⁴ Current programmes supported by the Norwegian government in Angola, 17 January 2007, <http://www.noruega.ao/Development/support/current.htm>.

activities determined by the government, which is clearly intended to restrict their interventions to humanitarian work. Some observers worry that this might lead to greater restrictions on NGO activities, although previous laws, such as a requirement for NGOs to provide the authorities with details of their banking and financial details, have not been enforced in practice.⁴⁵ It is often difficult for foreign aid workers to obtain work visas and some see this as a sign of government suspicion towards them, although such bureaucratic delays are common in many other aspects of Angolan society.⁴⁶

According to the 2006 human rights report by the US Department of State, there are more than 100 international NGOs operating in the country, and approximately 350 domestic NGOs. The Angolan government's own directory of NGOs lists 97 international, 78 national and 15 Church organisations.⁴⁷ There are probably more national NGOs operating, especially at the local level. The US State Department report also notes that Angola's human rights record remains poor, although there have been improvements in a few areas.⁴⁸ In June 2005, Angola's parliament confirmed the appointment of the country's first human rights ombudsman. However, the organisation's mandate is limited.⁴⁹ In November 2006, Human Rights Watch gave a cautious welcome to some aspects of a new Press Law which ended the state's monopoly over television broadcasting and created a public broadcasting service. However, it noted that journalists often erred on the side of caution when reporting allegations against the government, and said that a number of barriers remained to the development of an effective pluralistic media.⁵⁰

3.5 Corruption and forced evictions

The two issues on which human rights and advocacy NGOs have been most active in Angola in recent

⁴⁵ Inge Amundsen and Cesaltina Abreu, *Civil Society in Angola: Inroads, Space and Accountability*, CHR Michelson, Institute, 2006, <http://www.cmi.no>.

⁴⁶ Interviews conducted in Bie province, March 2007.

⁴⁷ US Department of State, 2006 Country Reports on Human Rights Practices, Angola, 6 March 2007, <http://www.state.gov/g/drl/rls/hrrpt/2006/78718.htm>

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ Human Rights Watch, *Still Not Fully Protected: Rights to Freedom of Expression and Information under Angola's New Press Law*, HRW, 16 November 2006.

years have been alleged corruption and forced evictions. Although these are distinct issues, the linkage between them is obvious. Many people have settled informally on land, particularly in urban areas, which has recently become commercially valuable. A Human Rights Watch report has noted that 'the government's conduct in carrying out the evictions documented in this report [is] in clear violation of its obligations under both international and Angolan law'. It states that:

International law recognizes the right for governments to expropriate land from private citizens even without their consent or to forcibly evict residents. However, such measures can only be taken in the most exceptional circumstances, with a clearly identified public interest and with appropriate processes in place. For a compulsory eviction to comply with international standards, governments must ensure that feasible alternatives are explored and that individuals have a right to compensation for both real estate and personal property. They must also apply minimum procedural protections that include genuine consultation with those affected; adequate and reasonable notice of the date of eviction; timely information on the proposed evictions, including, where possible, the alternative purpose for which the land is to be used; proper identification of the staff carrying out the evictions; and the availability of legal remedies for those affected.⁵¹

Some evictions may have been carried out for legitimate reasons, including that many houses are unsafe or have been built in areas that are vulnerable to flooding and other problems. However, resistance to evictions has become politically sensitive due to a lack of trust about the government's intentions and a, sometimes mistaken, belief that its officials are always solely motivated by land-grabbing for personal gain. An increasing number of national and international NGOs have become involved in the issue of forced evictions in urban areas.

So far, the government has relied upon coercive measures in response to protests against both

⁵¹ 'They Pushed Down the Houses.'

corruption and forced evictions. For example, Human Rights Watch reported that on 9 November 2006 the Angolan National Police had arrested over 100 protesters on their way to a demonstration against corruption within the government. The protesters were distributing pamphlets that accused the government of siphoning 'away billions of dollars that belong to the Angolan people'.⁵²

The NGO Global Witness has spearheaded an international campaign to press the Angolan government on transparency. In February 2007, Dr Sarah Wykes, one of its senior campaigners, was arrested in Cabinda, a politically sensitive region due to a campaign by separatist guerrillas. Wykes was visiting the country as part of an investigation into its oil sector. She was detained for almost a month and, although she was eventually allowed to leave the country on bail, the case against her, under a national security law, continues.⁵³

On 30 March 2006, the UN Special Rapporteur on the Right to Adequate Housing issued a statement in which he claimed that, on 13 and 14 March 2006, a group of families were evicted from their homes in a neighbourhood of Luanda. Reports indicated that members of the National Police Force, provincial inspectors as well as agents of a private security company shot into the unarmed crowd of residents, and kicked and hit people with guns and whips. Homes were demolished and, according to reports, residents have not been offered alternative housing or any type of compensation.⁵⁴

Amnesty International claims that between 2001 and 2006 thousands of families have been forcibly evicted from various neighbourhoods in the capital, Luanda. It says that the evictions have left tens of thousands without shelter, and were typically carried out without prior notification or consultation, without due process and with excessive use of force. The police and the armed forces shot

indiscriminately at those being evicted, beat them up and arrested those who tried to resist. Houses were demolished and property was destroyed or stolen. The evictions have also targeted the poorest families who have least access to the means of securing their tenure, or of finding alternative accommodation.⁵⁵ According to Amnesty, hundreds of those forcibly evicted remain without shelter and have not received compensation. Some were forcibly relocated to other areas, almost invariably far away from schools and places of work, and which often lacked services such as sanitation. Furthermore, they were not given security of tenure to the new land, making them vulnerable to further forced evictions.⁵⁶

Both Amnesty International and the UN Special Rapporteur have called on the authorities to abide by the 'Basic principles and guidelines on development-based evictions and displacement' prepared by the UN, which include the recognition that 'forced evictions intensify inequality, social conflict, segregation and "ghettoization", and invariably affect the poorest, most socially and economically vulnerable and marginalized sectors of society'.⁵⁷ The Special Rapporteur has warned that the Angolan government 'could be in violation of its obligations under the International Covenant on Economic, Social and Cultural Rights, to which Angola acceded to in January 1992'. He also drew attention to General Comment No. 7, which states that 'forced evictions are *prima facie* incompatible with the provisions of the Covenant and can only be carried out under specific circumstances'. States are obliged 'to ensure, prior to carrying out any eviction, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force; equally to ensure that legal remedies or procedures are available and accessible to those who are affected by eviction orders, along with adequate compensation for any property affected, both personal and real; and, in those cases where evictions are considered justified, ensure that they be carried out in strict compliance with the relevant provisions of international human rights law and in

⁵² Human Rights Watch, *Angola: New OPEC Member Should Tackle Corruption Not Critics*, 15 December 2006.

⁵³ See Global Witness, statements on Sarah Wykes, 21 March 2007, <http://www.globalwitness.org>.

⁵⁴ Miloon Kothari, 'Human Rights Expert Expresses Serious Concern about Persistent Practice of Forced Evictions in Angola, UN Office at Geneva', News and media, 30 March 2006, [http://www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear_en\)/9F65289128697047C1257141004B493E?OpenDocument](http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/9F65289128697047C1257141004B493E?OpenDocument).

⁵⁵ Amnesty International, *Angola: Lives in Ruins, Forced Evictions Continue*, AI Index: AFR 12/001/2007, 15 January, 2007.

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

accordance with the general principles of reasonableness and proportionality'.⁵⁸

The Angolan government has contested the Special Rapporteur's findings and, according to the US State Department, has also restricted some NGO activities as a result of it.⁵⁹ On 22 May 2006 a high-level government official denounced the housing initiatives of local NGO SOS-Habitat for allegedly 'fulfilling an agenda, with a view to tarnishing the image of the government, by constantly and permanently creating difficulties to its performance'.⁶⁰ SOS-Habitat continued its activities and public advocacy despite this criticism and has been backed by a number of other Angolan NGOs. The international NGO Christian Aid, which funds SOS-Habitat's work, responded with a statement of support for its partner.

The issue of urban evictions is complicated. Many people are clearly occupying land illegally, but still have the right to due process before being evicted. Others have papers showing they bought the land, but these do not constitute legal proof of their right to be there, even if they have paid for it, invested in it and lived there for most of their lives. Others have old papers showing that they were allocated land from government-sponsored agricultural programmes in areas that have subsequently become peri-urban. The solution proposed by one NGO, Development Workshop, is to allow people to regularise their occupation rights by issuing deeds to *bona fide* occupants. Where evictions do take place they should follow fair and transparent procedures, and people should be offered alternative accommodation.⁶¹

Given the rise in property prices in urban areas this could give a significant economic boost to many poor people, as the wealth that is currently locked up in their land and houses is now considerable. By legalising informal settlements, the government would enable people either to sell their houses on the formal market, or use them as collateral against which to borrow. Regularisation of land rights and

⁵⁸ Kothari, 'Human Rights Expert Expresses Serious Concern'.

⁵⁹ US Department of State, 2006 Country Reports on Human Rights Practices, Angola.

⁶⁰ Ibid.

⁶¹ Angola: Interview with Development Workshop director on land rights, May 2006.

the, currently informal, real estate market could provide a boost to state revenues by providing an opportunity to levy sales taxes and local rates, which, in turn, could help tackle the current lack of basic services, such as water and sanitation, in urban areas. The fear is that if the government continues to rely on forced evictions and coercion, clashes will escalate and could eventually result in major conflict.⁶²

3.6 The demobilisation process

In contrast to these controversies, the demobilisation of 100,000 former rebel UNITA combatants was completed within three years with few serious incidents or controversies. The process was organised in close collaboration with UNHCR's sustainable reintegration programme, which included surveying and socio-economic profiling of areas for return.

Land was widely available in the main municipalities profiled by UNHCR: Lumbala Nguimbo, Luao and alto Zambeze in Moxico, Mbanza Congo and Kuimba in Zaire, Caungula in Lunda Norte, Menongue in Kuando Kubango, and Maquela do Zombo in Uige, and almost 70% of the returnee population settled in these places. More than 50% of the land was deemed fit for cultivation, and there have been no reported incidents of conflicts over land tenure.⁶³

Land is usually allocated to the newly arrived population by the Soba (village elder), at the Bairro (neighbourhood) level. The average plot of land that is given for cultivation purposes amounts to about one hectare per household, though the surface varies substantially from one household to another, as it is commonly adjusted to the exploitation capacity of the household. An estimated 75% of the population cultivates a plot of land, though that percentage approximates 95% in most of the Comunas (Districts) outside of the municipalities of return. Land is given for free, and reportedly in sufficient quantity, to all of the returning population. Once land is allocated to a household, no title deed or property document is delivered, though the government hopes to do this in the future. Even

⁶² Ibid.

⁶³ UNHCR and Ministry for Social Reintegration, *Sustainable Reintegration Programme in the Major Areas of Return*, no date.

though land is not formally owned, family members may inherit the land through customary practice.⁶⁴

As a Development Workshop report noted, Angola's process of demobilisation and resettlement occurred remarkably quickly and smoothly. Access is possible to all parts of the countryside and there have been no documented cases of widespread disputes over access to land.⁶⁵ The report included a detailed study on the specific topic of access to land by demobilised soldiers in rural areas of Huambo province and a more wide-ranging examination of the issue in four other provinces. It found few cases of conflicts over land, and that traditional methods of conflict resolution, through customary law as interpreted by village elders, seemed able to deal with these.⁶⁶ It stated that 'the number and severity of [land-related] problems facing demobilised soldiers was not found to be alarming'.⁶⁷

The vast majority of those interviewed were returning to their birth-place or the place where they had resided before they joined UNITA (89%). This does not mean that the same proportion of demobilised combatants have returned home, but simply reflects where demobilisation was carried out. Given the survey's other findings about the harsh social and economic conditions facing returnees in rural areas, and the discussion above about the general movement of people towards urban and peri-urban areas, it seems likely that many former combatants will also have drifted to the cities. However, the study does provide some important insights into the problems of reintegrating former combatants into Angolan society, and some of the obstacles that are likely to face other displaced people who wish to return to their original homes.

The study noted that most of the demobilised soldiers had joined UNITA when they were young, and that they had spent an average of 15 years away from their communities. They were returning home with few skills that are useful in peacetime. Over three quarters had not progressed beyond primary education and a quarter had only got as far as the

end of one year's schooling.⁶⁸ They were now overwhelmingly dependent on agriculture for their livelihood. 'Non-agricultural occupations were rarely mentioned in the interviews, even in areas near the towns, where some alternative occupations would have been expected. The range of current occupations was noticeably more limited than in the past: 73 per cent said that they had relied on small-scale agriculture before joining UNITA.'⁶⁹ The vast majority (87%) obtained land, either through loan or inheritance, from their family. Much smaller numbers bought (4%), rented or loaned (3%) or were awarded land by the village elders (3%), while the remaining 3% had no land.⁷⁰ Of those who claimed to have a legal right to the land that they were occupying, only 3% had any legal documents, although few of the remaining 97% considered this to be a problem.⁷¹

The biggest threat that those interviewed expressed in relation to their land rights was the possible encroachment of large-scale commercial farmers, whose fazendas were established during the colonial era. Most were abandoned at independence and many were formally declared to be the property of the state. In 1992, the government 'privatised' this land, which in practice meant that it has now passed into the hands of people with links to the government, the army and the MPLA. Many of the new owners were based in urban areas and were not able to take physical possession of the land until the end of the conflict. Since mid-2002, commercial farming has resumed and some of the fazendas have started operations. This is leading to some tensions with local communities who had previously been using the land for their own purposes – such as wood gathering and hunting. There have also been reports that some fazenda owners (fazendeiros) have been attempting to expand the borders of their farms, as happened during the colonial period.⁷²

According to one report, over half (52%) of the ex-combatants interviewed reported that they were only cultivating a small part of the land that they occupied. The main reasons given for this were a lack of animal traction to help in ploughing (77%),

⁶⁴ Information supplied by UNHCR, May 2007.

⁶⁵ Paul Robson (ed), *What To Do When the Fighting Stops, Challenges for Post-conflict Reconstruction in Angola*, Development Workshop Occasional Paper No. 7, 2006.

⁶⁶ *Ibid.*, pp. 52–53.

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*, p. 36.

⁶⁹ *Ibid.*, p. 39.

⁷⁰ *Ibid.*, p. 43.

⁷¹ *Ibid.*, p. 45.

⁷² Robson (ed.), *What To Do When the Fighting Stops*.

lack of physical strength to work larger areas of land (17%) and a lack of seeds and tools (59%).⁷³ Similarly, most of the land of the current fazendas is not yet being farmed because its owners do not have the capital necessary to invest in it or to employ sufficient workers. During the research mission for this report a number of humanitarian organisations repeatedly stressed that poverty rather than a shortage of land was the main problem facing people in rural areas.

Many humanitarian organisations have already attempted to address the problem of lack of investment by small farmers through programmes of seed and tool distribution, but it is clear that this has not been enough to meet current needs. The report noted that only 19% of those who had obtained seeds and tools had received them from NGOs, while 42% had bought them and 20% had borrowed them from neighbours and family members.⁷⁴ The report stated that only 30% of those interviewed considered that they had land of sufficient size and quality on which to earn a livelihood; however, its conclusions tend to reinforce those of other studies, which show that it is a lack of investment in land, rather than a lack of land itself, that appears to be the biggest problem facing rural communities in Angola.

3.7 Rural land rights

One of the central problems regarding land rights in Angola is that, without an increase in investment, the land that people have access to is insufficient to support them and their families. The solution to this is not, however, simply to give them more land. As one land rights expert has noted, the average Angolan family needs a minimum of about two hectares of farming land to sustain itself, but it is difficult for them to cultivate such an area without animal traction, proper irrigation and fertilisers.⁷⁵ This problem becomes even more acute for female-headed households, orphans and other vulnerable groups. The issue of land rights and tenure security, therefore, needs to be seen in a social and economic, as well as a civil and political, context.

⁷³ Ibid., p. 46.

⁷⁴ Ibid., p. 46.

⁷⁵ See, for example, Fernando Pacheco, 'Rural Communities in Huambo', in *Communities and Reconstruction in Angola*, Development Workshop Occasional Paper no. 1, 2001

As described above, there have been reports of land-grabbing in rural Angola and there are general concerns about the lack of transparency with which land is being allocated. The Ministry of Agriculture has stated that, up to 1999, more than two million hectares of land in the whole country had been granted to commercial farmers, but that this largely remains unused.⁷⁶ During interviews conducted for this report in Bie and Huila province, it was reported that there had been some instances where land close to towns had been taken over illegally, but that there was no shortage of arable land in more isolated rural areas where there were no roads and it was effectively impossible to farm on a commercial basis.

At the moment there is little economic incentive for rural land-grabbing. However, given that so few people have documents proving their right to be on their own land, there is a danger that this could increase if strategies to improve the rural economy are successful. The issue of rural land rights needs, therefore, to be tackled holistically by increasing people's security of tenure at the same time as promoting economic investment in the land. One policy without the other will not help people; if implemented together, they could lead to a virtuous circle where greater tenure security leads to greater investment, which in turn promotes economic and social development.

The Food and Agricultural Organisation (FAO) has been working in Angola since 1999, aiming to promote a decentralised and participatory system of land management.⁷⁷ It has worked closely with the Angolan Ministry of Agriculture to develop a food security and investment priority-setting strategy and to contribute to the government's poverty reduction strategy. According to these strategies, investment in rural areas is a vital step in 'increasing food security, reducing rural poverty, raising crop production, promoting livestock production, developing the forestry sector, reactivating rural trade, modernising the animal health research system, restoring rural extension services, rehabilitating irrigation systems, rehabilitating rural

⁷⁶ Clover, 2006.

⁷⁷ Frederic Deve, *Lessons Learning in Policy Assistance, Case Study Angola, 'Support to a Decentralised Land Management Programme*, FAO, February 2007.

infra-structure and supporting human resource training and skills'.⁷⁸

FAO believes that Angola could easily become self-sufficient in food, given its rich agricultural resources, but, without a conscious change in policy, it will remain a net importer. The success of Angola's peace process, and the current investment boom, are bringing new roads and other infrastructural improvements, which could make it easier for farmers to market their crops. But this will also make it easier to import food from abroad, which is often cheaper due to Angola's strong currency. It is estimated that 80% of Angolan farmers are subsistence smallholders generally producing little or no surplus, while only 2% are commercial farmers with a paid workforce.⁷⁹

The FAO study estimates that 18% of farmers produce some surplus, which they can sell to local markets. The key to their productivity is the ability to use animal traction and machinery. Encouraging investment seems, therefore, to be essential for the sustainable development of Angola's agricultural sector. Experience from around the world has shown that people will only invest in their land when they are sure about the security of their tenure over it, and that people can also use their land as collateral for loans to make the land more productive.⁸⁰ There is, therefore, a clear link between land rights and rural economic development. As another FAO study has concluded: 'People's rights to access land constitute basic building blocks for enhancing and sustaining their food security. Moreover, land rights are an integral part of social capital, giving people the foundation on which to assert self-determination within their society, culture, agro-ecosystem and economic context'.⁸¹

FAO has initiated a number of projects helping communities to map and demarcate the boundaries of their land and to help people to obtain titles and certificates of ownership. It has worked both with of

national staff in government officials and householders to strengthen decentralised land management, and has also helped the government to create a new legal framework for land rights.⁸² This has been coupled with projects providing direct assistance, such as seeds and tools, to vulnerable communities.

The decision to start the project in rural areas was taken mainly because the topic is less controversial there than in urban areas. FAO hopes that the scheme can be piloted in rural areas and that this will help to build up experience and trust in working with the official authorities.⁸³ The aim is also to attempt to achieve a consensus between national and international and government and non-governmental agencies on how to move forward on the issue. FAO sees 'trust-building' as a long-term project, which will take several years. FAO also believes that international agencies need to think harder about what land tenure security actually means in practice in countries such as Angola, where the concept of private property is quite different from how it is perceived in the West.⁸⁴

A number of NGOs have also combined the provision of humanitarian assistance with lobbying for a new land law and raising people's awareness of their rights under existing law. The Norwegian Refugee Council (NRC), Norwegian People's Aid, Caritas and other agencies are all running training seminars in rural communities to tell people about their rights.⁸⁵ These trainings are conducted at the village level and are interactive and participatory. They aim to communicate legal concepts about land rights in a simple way, and rely on raising knowledge amongst selected groups of community leaders, who can then communicate this message to the wider population. The NRC, for example, is aiming to sensitise 12,000 people through its seminars on land rights. The agency has created a mobile 'information service' that goes from village to village discussing land rights issues. This includes an innovative use of technology and well-structured

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ See, for example, Robert Guest, *The Shackled Continent, Africa's Past, Present and Future* (Pan Books, 2005), pp. 87–107.

⁸¹ R. Ramírez, *A Conceptual Map of Land Conflict Management: Organizing the Parts of Two Puzzles*, FAO Rural Development Division, March 2002, <http://www.fao.org/DOCREP/005/Y3932T/y3932t02.htm>

⁸² Deve, *Lessons Learning in Policy Assistance*.

⁸³ Interview conducted in Luanda with FAO, March 2007, and comment on first draft of report made by FAO official, May 2007.

⁸⁴ Comment on first draft of report made by FAO official, May 2007.

⁸⁵ 'The Law of the Land', *The Guardian*, 30 March 2007, http://commentisfree.guardian.co.uk/conor_foley/2007/03/angolan_land_rights.html.

training sessions, which encourage people to discuss the issue of land rights in an open way.

It is clear from observing one of these seminars that people are concerned that the fazendas may encroach on their land, and that traditional communities could face the possibility of land-grabbing in the future.⁸⁶ However, this is seen as a potential rather than actual problem, and no direct examples were encountered during the brief research mission. None of the humanitarian NGOs interviewed provides a direct legal advice service for people concerned about land rights issues, although NRC has established such programmes elsewhere in the world, and all stated that any problems were currently being resolved by the Soba and village elders.

Much of the training and sensitisation was on women's rights, and this is obviously an area of concern about the customary law system. However, interviewees expressed the view that the system itself could cope with the return process, in marked contrast to opinions expressed in other African countries, such as Liberia and Uganda.⁸⁷ All of the humanitarian organisations and local government officials interviewed stated that it would be counter-productive to try to interfere directly with decisions made by customary law institutions. This again contrasts with the view similar

programmes elsewhere in the world.⁸⁸ In Afghanistan, for example, NRC's legal aid programme provides its clients with representation when participating in the adjudication mechanisms of village elders under customary law. Where humanitarian and human rights organisations did feel that they had an important role was in advocating with the authorities about the importance of respecting customary law rights and raising awareness amongst rural populations about the official law.

This report argues that some form of registration and titling process is needed and also that the inheritance practices on which customary law in Angola are based are discriminatory towards women. It states that the current land tenure system is confusing with customary and State law overlapping and neither being fully enforced. This has led to a feeling of insecurity amongst many people and the report argues that the most urgent priority is for a 'land rights awareness campaign coupled with the dissemination of a user-friendly handbook of the land law.'⁸⁹ This would be useful in both rural and urban areas and human rights activists argue that humanitarian aid agencies should include urban and peri-urban areas within the scope of their land rights work as the problems there are currently more acute.⁹⁰

⁸⁶ Observation of one seminar in Huila province, March 2007.

⁸⁷ This is based on the author's experiences of working in these countries, amongst others.

⁸⁸ Interviews conducted in Angola, March 2007.

⁸⁹ Ibid.

⁹⁰ Comment made by human rights activists on first draft of report, May 2007.

Conclusion

Angola accomplished a transition from war to peace, which has included a demobilisation, disarmament and reintegration process and the return and resettlement of millions of refugees and displaced people, without experiencing widespread conflicts over land amongst the returnees. The conflicts that have taken place have been in urban and peri-urban areas, where land is most valuable and pressure on space is greatest. However, lack of security of tenure is an issue for both the urban and rural poor. There is general agreement that establishing food security and livelihoods is the priority in stabilising the population and laying a foundation for sustainable return. As one observer has noted:

Most rural people do not have access to a sustainable income base outside of agriculture, and the high unemployment levels exacerbate the demand for land. Even if food becomes available in the local markets, most households will not have the cash to buy it. There is an urgent need to diversify and expand the agricultural and the non-agricultural base of rural households.⁹¹

Most humanitarian agencies are now phasing out their activities, despite the considerable hardship and poverty that exists. Donors are increasingly funding advocacy work by civil society organisations in recognition of the fact that Angola's two greatest problems are good governance and social inequality. During the research visit, a number of people interviewed from a range of organisations, including UN agencies, the World Bank and international donors, grass-roots national NGOs and

land rights activists, described this as the greatest challenge facing Angola as it makes the transition from humanitarian relief to broad-based development.

Angola has ratified a number of international human rights instruments that recognise people's housing, land and property rights, and it is clear that its current policy of forced evictions violate these standards. There is an urgent need to teach people about their rights, particularly because of Angola's widespread poverty and illiteracy. International donors should also support projects that help defend people from land-grabs and forced eviction, advocate for legal reforms and strengthen tenure security. Providing people with legal aid and simplifying dispute resolution mechanisms to deal with land conflicts has been shown to be an extremely effective way of promoting sustainable return and the transition from relief to development.

Angola's problems are complex, but as Development Workshop's director has commented, some of the solutions are quite simple. Huge amounts of investment will be needed to develop Angola's economy, 'but one of the sources of investment in the sector will come from the people themselves, if their rights are recognised. One of their only ways of saving – putting aside money – is to invest in houses: people invest in turning a tin-sheet house into a concrete house and upgrading their land. The wealth of all of these poor people is tied up in their land and housing'.⁹² If people were able to access this wealth it could provide a powerful boost to the process of early recovery and sustainable development.

⁹¹ Ibid.

⁹² Allan Cain, 'Urban Poverty and Civic Development in Post-war Angola', in *Preparing for Peace Workshop on Future Swedish and Norwegian Development Cooperation with Angola*, Chr. Michelsen Institute Report, April 2002.

Recommendations

- The government should be held to account by the international community to abide by its international treaty obligations in relation to housing, land and property rights and, in particular, to international standards surrounding evictions.
- International donors should help the government to continue its efforts to put land and property relations on a sounder legal footing and to strengthen its administrative and adjudicative mechanisms.
- International donors should support land rights awareness campaign and the establishment of a free legal aid service to help people experiencing problems related to housing, land and property rights.
- Any legal reform must, however, be based on a recognition of people's customary rights to the land on which they live. Any requirements for people to re-register this land should be made as simple and non-bureaucratic as possible, should have a realistic timescale and should be accompanied by official sensitisation campaigns which inform people about the process and their rights.
- International donors should continue to press the Angolan government to continue reforms to strengthen good governance reforms and tackle corruption.
- International humanitarian assistance should continue to be supplied to people suffering acute need in Angola. Assistance should also be maintained to NGOs carrying out advocacy work.



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