Research and practice as advocacy tools to influence Angola's land policies

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ABSTRACT   A large part of Angola's population was displaced during the war years, and they created new homes and settlements in coastal cities on land that they occupied in good faith but for which they could get no legal title. Now, they face eviction threats due to commercial interests and government investment in infrastructure expansion. This paper discusses how research on urban land promoted the need to formalize the poor's informal occupation rights as the government developed a new land policy. The research looked at both formal and informal mechanisms to access land by poor and war-affected populations and at the institutions that influence this. Its findings helped persuade the government of the need for consultation, and promoted more awareness of how upgrading and basic service provision could improve land tenure. It also helped extend the time period set by law during which those with informal tenure must seek formal title (from one to three years). Upgradeable rights were not accepted in land law, although these may be incorporated into supplementary legislation and local government by-laws. Participatory approaches to land management have also been promoted through demonstration projects with governments in several provinces, with the aim of influencing a new and ambitious national programme for housing and urban upgrading.

KEYWORDS   Angola / *bairro* / land / *musseque* / peri-urban / post-conflict / tenure

I. INTRODUCTION

Angola's turbulent years of war produced mass movements of populations and prevented the poor from gaining access to land. Many were displaced and forced to abandon their homes and create new settlements around the relatively safe coastal cities. The end of war led to a scramble for land between competing interests. In Luanda, powerful commercial interests threaten mass evictions of families who fled the war-ravaged countryside to make homes on land without legal title. Luanda grew rapidly at an average of more than seven per cent annually and passed the six million mark in early 2009. Land ownership and occupation are also an issue in the countryside. Rural resettlement is a major challenge in areas with no supporting services or where infrastructure has been destroyed. Landmines left over from the war pose an additional danger. At the end of the war, only 30 per cent of the areas of return were considered "fit" for resettlement by United Nations standards.[1]

1. The United Nations' Norms for Humanitarian Settlement and the SPHERE principles became the basis for Angolan legislation on resettlement in 2001.

Development Workshop (DW)[2] has worked with local partners to campaign for a new land policy and law to formalize the poor's informal occupation rights and their access to land.[3] Secure tenure would release the poor's capital so that they could improve their built environment and their living and working conditions and promote a peaceful transition to development. That is, if conflicting commercial interests in the same land could be contained.

When DW first engaged in advocacy for land rights in the mid-1990s, Angola was still embroiled in cycles of civil war. Conflicts over land were lost in the general preoccupation with higher level conflicts and, indeed, had not been addressed since the country's independence from Portugal in 1975. The expropriation of Angolans' land and the accumulation of land by colonial settlers had been among the key factors fuelling the war for independence.[4]

Over the course of the war, millions of people fled fighting in the countryside and headed for the relative safety of the big cities. They set up homes in *musseques* and shanty towns, building their basic dwellings on land obtained through a variety of informal mechanisms and investing what little money they had in home improvements. But the informal land occupation or purchase documents they obtained, if any, were not legal titles and were invariably of little value when presented in a dispute over land with the state or a private company.

Disagreements over land became more frequent as war gave way to peace. In rural communities, fertile agricultural ground with relatively easy access to urban markets was in high demand. These sites frequently became the focus of disputes between residents and returning populations of internally displaced persons (IDPs), refugees and demobilized ex-combatants, as well as more powerful official interests. In the towns, the urban poor risked being uprooted from their homes because their sprawling *musseques* frequently were located on prime real estate, ideal locations for commercial housing developments, offices and roads.

DW realized early on that the conditions were in place for land conflicts to spiral out of control, possibly even posing a threat to the consolidation of peace in some parts of the country. That concern prompted them to engage in advocacy and research work around the land issue. DW partnered with the Centre for Environment and Human Settlements (CEHS),[5] which has considerable experience in Mozambique and in action–research in this area.[6]

II. BACKGROUND

The legal system in Angola is derived largely from the colonial system imposed by the Portuguese, with adaptations of generally a socialist nature made after independence.[7] Law No 2030 of 1948 was the basis for land law during the colonial period and was subject to numerous local by-laws in various provinces. Legislation was rooted in the Civil Code, which remains the framework for Portuguese and Angolan laws. The new Constitution at independence in 1975 reflected the nationalist and socialist ideology of the times. It established the overall right of the state over all land, which could be transferred in turn to individuals and entities, in effect a form of usufruct.[8] In 1992, Law 21C was

2. Development Workshop (DW) is a human settlements not-for-profit organization that has worked in Angola since 1981.

3. The introduction to the present case study is abstracted from Development Workshop (2005), "Action–research as an advocacy tool to influence Angola's land policies", in Development Workshop Occasional Paper No 5, Chapter 11, Luanda, pages 157–166.

4. Cain, A (2010 forthcoming), "Angola: land resources and conflict", Chapter in *Post-Conflict Natural Resources Management*, United Nations Environment Programme (UNEP) and Environmental Law Institute (ELI), Washington, DC.

5. The Centre for Environment and Human Settlements (CEHS) is an international research and training institution based in the UK that provides knowledge-based services for developing and rapidly urbanizing countries.

6. Jenkins, P (2004), "Querying the concepts of formal and informal in land access in the developing world: case of Maputo", in M Vaa and K Hansen (editors), *The Formal and Informal City – What Happens at the Interface*?, Nordic Africa Institute, Uppsala, pages 210–226.

7. Development Workshop and Centre for Environment and Human Settlements (2005), "TERRA – urban land reform in post-war Angola", Development Workshop Occasional Paper No 5, Luanda, page 145.

8. See reference 7, page 148.

approved to regulate "surface land rights use" – the concession of land for agricultural use. Decree 46A of the same year developed upon this, giving the provincial government the right to concession, including in urban areas where the land was under state control. This form of usufruct was to be conceded for a minimum of 25 and a maximum of 60 years, and was renewable. The 1992 Land Law was developed quickly as one component in a raft of liberalizing legislation preceding Angola's first democratic elections, and was passed with relatively little debate. The law, however, was grounded in the colonial legislation and accepted the land divisions mapped out in the pre-independence cadastre. It therefore effectively legitimized the injustices of the colonial era land grab that expropriated the lands of many African peasants, and their incorporation in large settler holdings. The law was ambiguous, imprecise and left many areas undefined. Its application in peri-urban areas was very difficult. This law placed responsibility on the state to manage land access, but the state institutions for regulating land access were weak and lacked adequate capacity to implement the existing legislation and regulations in a transparent and accountable manner. State management of land was disorganized and open to abuse. Furthermore, there was a dispersion and overlap of responsibilities, and no clear records. As with the colonial laws and regulations, the system gave advantages to those who were able to understand the system, knew how it operated and knew the people who administered it. What happened in practice was often different from what was intended in law.[9]

9. Pacheco, F (1998), "Sobre a propriedade comunitaria de terre", Paper presented at an FAO Workshop on Access and Use of Land, Luanda.

In an attempt to address the failure of the 1992 law to deal with urban issues, the Luanda provincial government announced an emergency programme in 1994 to deal with unplanned land use in the urban area (Resolution 30/94). It subsequently developed By-Law 1 in 1996 to allow its implementation in conceding the usufruct (surface) right, linked to a programme of land and infrastructure development with private sector partners – the Luanda Sul programme. This was a basis for the later approval in 2000 at central government level of the Plan for Management and Growth of Luanda (Resolution 27/00 of the Council of Ministers) as a basis for a master plan. The master plan was never finalized despite two follow-up regulations: Dispatch 57/2000, which created a working group to update and coordinate all laws and regulations affecting provincial government; and Dispatch 82/2000, which indicated the intention to commence a comprehensive and systematic urban planning and upgrading programme.

In the meantime, in 1996, an Angolan government delegation attended the UN City Summit (the Second UN Conference on Human Settlements) in Istanbul and signed up to the Habitat II Agenda, which obliged governments to bring their national legislation into compliance with international norms of human and civic rights-based good urban practice, including participatory approaches to planning and security of land tenure.

Up until the end of the war, the rights to de facto occupation of land in good faith in Angola were tacitly acknowledged. However, government at both central and provincial levels, as well as some elements within the private sector, were gradually taking a different position, that de facto or informal occupation increases urban development costs and should be either limited or annulled in future. Civil society, on the other hand, was

alert to the need to recognize and "valorize" actual occupation rights. Some saw this as an issue of civic rights, mainly to avoid future social conflict, but some also saw occupation rights as a means to consolidate domestic investment and economic growth.[10]

10. See reference 9, pages 62–63.

III. NEED AND FOCUS FOR RESEARCH

It was widely agreed that the 1992 Land Law was outmoded, had been poorly applied and ignored the urban context. Consequently, in July 2001, the government indicated that it planned to update it. DW was concerned that there existed a profound information gap, especially a lack of knowledge about the actual situation on the ground, at a time when, at the end of the war, there were massive population movements taking place. There was a risk that decision-making and legislative processes could have weak practical application. Worse was the prospect that decisions would be made that not only failed to deal with current challenges, but also inadvertently exacerbated them.

Early in November 2001, DW, with assistance from the CEHS, spearheaded two one-day workshops on the land issue. Attended by more than 50 members of the government and civil society, including representatives from Luanda, Huambo and Benguela, these workshops effectively launched DW's research and advocacy work – eight months before the government published the draft version of its new land law. These workshops highlighted the misconceptions and lack of knowledge surrounding land issues (and especially urban land issues) among those in positions of authority.

The Ministry of Urbanism and Public Works (later the Ministry of Urbanism and Housing – MINUHA) commissioned DW to undertake a "scoping exercise", designed to provide an overview of land and housing rights issues in peri-urban areas. The work was undertaken between November 2001 and July 2002. The results established the case for much more detailed investigations, opened the possibility for inputs from civil society and recommended public consultation on the proposed changes to the law. The results of the study also underscored the need for government to facilitate and formalize the regulation of land tenure. The government subsequently released a draft of the new land legislation in July 2002 and opened it to public consultation. The new legislation presented an opportunity to contribute to conflict resolution, reconstruction and poverty reduction. Research about how land was accessed by the poor and war-affected populations was thus of vital importance to the consolidation of peace and the reconstruction and development of the country.[11]

11. Development Workshop (2003), "Land access in peri-urban Angola: its role in peace and reconstruction", Luanda, September.

The main research investigated a range of issues, including informal and formal mechanisms for land access, institutions involved in land management, and institutional attitudes to land, poverty, migration and land conflicts. The action–research programme was broad, covering four urban centres (the country's principal cities Luanda, Benguela and Huambo and an intermediate provincial capital, Namibe) and three-quarters of Angola's urban population. It also provided an opportunity to bring other interested parties in government, the private sector and civil society into the discussion. DW and the CEHS built up a research team of NGO community development workers, university students and

several government department staff who were trained in qualitative rapid participatory diagnostic tools as well as qualitative questionnaire techniques. The reliance on participatory research rather than large-scale statistical surveys has the virtue of being cost and time effective. It also builds awareness and often expectation in the communities involved. This course of research risked raising community level awareness without offering a forum for issues to be addressed. The findings from the participatory research study however fuelled the land law consultative process that was launched a few months later. After July 2002 and the creation of Rede de Terra (Land Network), which worked alongside the government's Land Technical Commission in facilitating public discussion and debate, DW's documentation centre (CEDOC) began to conduct a media survey to track public awareness of the land issue by monitoring, archiving and disseminating articles in the official, independent and community press. Media-tracking can be used as a way of monitoring public awareness of issues such as land and related conflicts that may attract the attention of journalists.

One of the key factors affecting post-conflict urban development is the massive commercial demand for land and the emergence of a largely unregulated real estate market. Commercial interests put a lot of pressure on the state to produce a new land law that would formalize their occupancies. As part of the DW–CEHS participatory research programme, two studies on the formal supply and demand for land were initiated in order to understand the dimension and the functioning of the market.

The research team found, however, that the market was extremely difficult to penetrate, and key informants were generally uncooperative and reluctant to reveal their participation in informal and marginally illegal land transactions. The research did assess the potential conflict for land between different interest groups. Community members indicated that local land conflicts between residents could generally be resolved through *bairro* committees presided over by local administrators. Local community members felt generally powerless against claims or acquisition by the state or commercial interests allied with government.

IV. DISSEMINATING THE RESEARCH FINDINGS

The action–research revealed a set of important findings, including:

- the high level of family investment tied up in houses and in the land on which these are built, representing the accumulated savings of many years;
- conflicts about land in peri-urban areas were emerging and may be expected to take on an alarming dimension in the future unless occupancy rights are secured;
- the population of the peripheral *bairros* of Luanda continued to grow after the war ended, mainly due to natural population increases and migration there from other parts of the city rather than migration from rural areas, which had been the main factor during the conflict; however there were low expectations of future emigration out of peri-urban areas back to rural areas of origin; and
- informal markets for the purchase and renting of land and property were developing rapidly, and the majority of peri-urban residents

acquired their land and houses through informal mechanisms and have no formal titles nor access to mechanisms to regularize their occupation.

DW faced a dual challenge as these research findings emerged. First, it had to influence the Land Technical Commission, as it prepared the draft law in a vacuum, ignoring the reality of current land practice; and later, the National Assembly (Parliament) as it fine-tuned the land bill. At the same time, it had to raise awareness of the issue and promote debate among the general public. DW used a variety of strategies to address these challenges.

The government of Angola, as one of the signatories to the Habitat II Agenda of the UN Conference on Human Settlements in Istanbul in 1996, was already formally committed to international norms. Together with UN–Habitat, the government had begun the process to bring Angola into compliance with the international human settlements principles. The Habitat II Agenda also provided a useful framework against which the proposed land law could be analyzed.

Angola's involvement in the Habitat II Agenda process was also a factor that prompted the government to take the unprecedented step of seeking input and advice from civil society about the proposed changes in the law. This was the first law that had been open to public consultation in this manner and marked an important development in Angola's opening up to civil society. The land law consultation followed closely on the Luena Accords, which ended the civil war and initiated a phase of reintegration of the formerly warring parties into a more plural political process. The government set up a Land Technical Commission in 2002 whose role was to study the law and consult publicly around it.

For Angolan civil society, input into the consultation process was facilitated by Rede de Terra (Land Network), a coalition of NGOs looking at the land rights situation in rural and urban areas. Founded in November 2002 by a number of NGOs, including DW, Rede de Terra became a focal point for civil society consultation and information around the land law. While Rede de Terra was predominantly focused on the effects of the proposed changes on the rural population, DW led the discussion on urban land affairs, drawing on the on-going research programme. This ensured that urban issues were included in the overall debate.

DW, the ministry and the civil society organizations discussed the scoping study, then still a work-in-progress, in a series of workshop presentations between September and December 2002. The meetings were chaired by a senior member of the government's Land Commission, who later became minister. The scoping report[12] that was subsequently published as a government document (as it was commissioned by the ministry) was the first core document presented to the Land Technical Commission and the presidential advisor who led the legislation drafting team. The research findings and the report's conclusions and recommendations, being contained within a government-owned study, carried more weight and credibility than would have an unsolicited document carrying the same messages.

The openness of the Land Technical Commission to proactive inputs was a positive factor in the dissemination work. DW produced a detailed commentary on the first draft of the land law from the perspective of the Habitat II Agenda and comparable legislation from the southern African

12. The scoping study first draft was circulated in September 2002.

13. Professor Patrick McAuslan of the Law Faculty at Birkbeck College, University of London.

region. It also recruited a renowned international legal expert[13] who had been part of the UN technical group and who advised on the preparation of the Habitat principles in Istanbul in 1996. With his assistance, DW proposed a set of clauses for inclusion in the draft legislation that would bring the law into compliance with international land tenure norms and regional best practices for regularizing informal settlements. The Land Technical Commission agreed to include the commentary and proposed clauses as an annex to the next draft of the legislation.

Throughout 2003, the research programme continued to produce draft reports and studies that were delivered to the Land Technical Commission, government and civil society policy and opinion makers, and fed into the on-going public consultation process. A key piece of research was the institutional attitudes study undertaken by the CEHS with DW assistance. In the absence of a debate or clearly articulated position on land policy, the research team showed that the land law was based on a set of commonly held assumptions that occupied the "virtual space" normally set aside for "policy", and had embedded policy assumptions that were neither discussed nor made explicit. This study set out to clarify these assumptions by inviting key informants to speak openly (albeit anonymously) about their vision and ideas concerning urban development and land settlement policies.

Most government key informants agreed that urban growth was a negative phenomenon that should and could be reversed through master planning and the creation of rural or new urban "growth poles". The "growth pole model" had broad currency in the period before the civil war (1960s and 1970s). Many key informants felt that this, along with other plans and projects that had been stalled in the war years, could be dusted off for application in the post-war era.

The consultation process presented a chance to discuss and debate these proposals. Planning theory over the last several decades has progressed beyond master planning and growth poles. Some of these earlier growth models have produced expensive and embarrassing failures across Africa and other developing regions. Current planning models are based on strong community participation, participatory action–research and public consultation, and are focused increasingly on the municipality or community. International norms promote informal regularization of tenure and upgrading of basic urban services. In addition, urban growth is now generally seen as unstoppable and an integral part of development that presents as many opportunities as challenges. Current planning models do acknowledge and act on the common sense assumption that secondary cities and large towns supported by productive rural areas can modify the hyper-urbanization of primary mega-cities. It is, however, unlikely that excluding Luanda's urban poor from access to basic services will encourage them to return to their rural areas of origin.

The joint DW–CEHS research studies, published and circulated through 2003 and 2004, have effectively raised key questions about some of the suppositions and prejudices illustrated in the attitudes study that was one component of the action–research. The research findings also confirmed that the urban trends in Angola were similar to those experienced in many other low- and middle-income countries. Natural urban growth and inner-city population movements had, for instance, already overtaken rural migration as the major factor in the growth of peri-urban settlements.

The research sampling methodology was based on a process of participatory mapping that involved key informants and local community leaders in classifying *bairro*/neighbourhoods into distinct typologies. A cross-section of the city was drawn, encompassing three municipalities including the old inner-city, *musseque bairros* and peripheral settlements. A sample of 2,500 households was selected on the basis of the population densities of each of the typologies. University students and members of civil society organizations were trained to conduct household questionnaires. Semi-structured interviews were conducted and focus groups were organized to penetrate more deeply issues specifically related to conflicts and the perception of tenure rights.

The research demonstrated that 59 per cent of the studied households had moved into the *bairro* from elsewhere, including 35 per cent from another municipality within Luanda province, 20 per cent from another province and a small proportion from another country. The largest number of migrants within Luanda itself came from old inner-city municipalities experiencing rising housing costs (rents, etc.). Furthermore, the research indicated that much of the migration to the periphery was driven by poverty or the rising costs of living and by the opportunity for poor families to cash in their assets by selling off their increasingly valuable housing and land near the urban centre.

Figure 1 shows that across Luanda's peri-urban areas, about half the population had moved to their present location from other municipalities during the period 1996–2003, and about half that total had arrived in the two-year period 2001–2003. In other words, in-migration to the peri-urban areas was accelerating. The level of out-migration, meanwhile, was
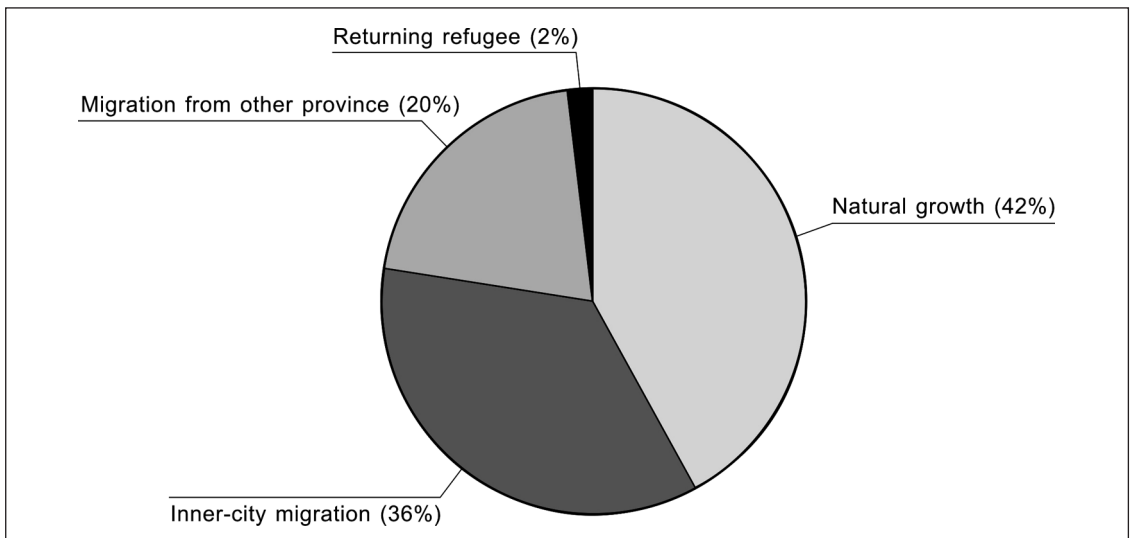

FIGURE 1
Migration and demography in Luanda's peri-urban *bairros*

SOURCE: Development Workshop and Centre for Environment and Human Settlements (2005), "TERRA – urban land reform in post-war Angola", Development Workshop Occasional Paper No 5, Luanda, page 110.

low. The highest levels of intended out-migration were found in the old *musseques*, where land prices and pressures were increasing, and these people generally headed for the lower-cost periphery of the city rather than to rural areas of origin as planners had hoped.

Despite continued migration, a large proportion of the population in the surveyed areas (41 per cent) did not come from other municipalities and provinces. Urban growth in these areas is thus also due to natural growth and movement within the municipality. In addition, there are considerable numbers who have lived on their current land for many years. Although the figures indicate high levels of urban growth, half the population reported having been on their plot for more than five years.

In general, the research shows that the demographic tendencies are predominantly the result of natural urban growth and intra-urban transfers rather than direct in-migration from rural areas, as is often assumed. This has led to a differential housing market, albeit with significant restrictions on movement due to the limited availability of new units. The low level of out-migration is not surprising given the lack of realistic opportunities elsewhere, and needs to be taken into account in urban policy preparation.[14]

Poverty levels are very high across the surveyed peri-urban areas in Luanda:[15] 42 per cent of respondents are destitute and 37 per cent are very poor.[16] This is due to a combination of low personal/household access to sources of income, high dependency ratios and poor physical conditions both on and off plot. The highest levels of absolute poverty were recorded in the *musseques* on the city's periphery, where 84 per cent of the population are considered destitute. In most *bairros*, the vast majority of the population was destitute or very poor. Most households have very poor access to economic resources and have high dependency numbers (49 per cent have six or more dependants per income earner),[17] compounding the poverty levels.

The research also demonstrated the existence of a lively real estate market, albeit unregulated and considered "illegal". The existence of this market presents opportunities for government to finance urban and infrastructure upgrading from rates, fees and eventually taxation, through land-titling and regularization.

Eighty per cent of residents interviewed across peri-urban areas in Luanda claimed to possess some form of document proving that they had purchased, occupied or rented the land on which they were living. Only 16 per cent did not have any such document. "Purchase and sale" contracts made up 20–30 per cent of these documents. The frequency of documents witnessed or signed by the local administration varied from 10 per cent to 25 per cent. Some documents were actually receipts for fines paid to the local administration for unauthorized occupation. The majority of the reported documents, however, do not confer legal occupancy rights although most residents mistakenly think that they do. Less than 20 per cent of those interviewed had what could be considered legal ownership titles or formal rental contracts with owners holding legal titles. A large proportion (43 per cent) of respondents had no knowledge of the legal concept of land rights and only 13 per cent had a reasonable awareness of land rights issues.[18] Since the new land law proposed stripping informal occupants of any tenure rights, the majority of those living in peri-urban areas and *musseques* risk becoming illegal.

14. See reference 7, pages 109–111.

15. Based on a sample survey of 2,500 household questionnaires covering three representative peri-urban municipalities in Luanda.

16. For the purposes of this research, poverty was defined as "low access to a series of resources (economic, human, physical, sociocultural and legal/political) that householders can draw on to lower their vulnerability"; see reference 7, pages 111 and 117.

17. See reference 7, page 112.
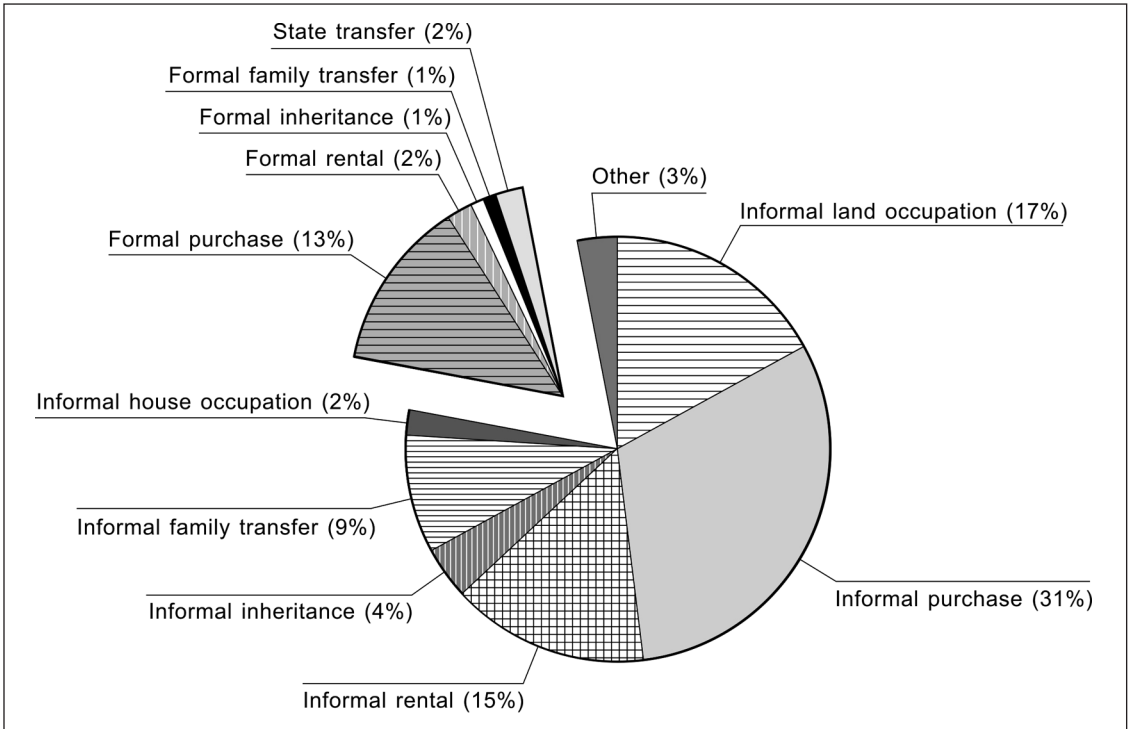
18. See reference 7, page 108.

FIGURE 2
Access to land in Luanda's peri-urban *bairros*

SOURCE: Development Workshop and Centre for Environment and Human Settlements (2005), "TERRA – urban land reform in post-war Angola", Development Workshop Occasional Paper No 5, Luanda, page 108.

V. ADVOCACY IN PARLIAMENT

Meanwhile, the process of revising the land law gained momentum. In late 2003, the Land Commission produced a second draft that responded to some of Rede de Terra's concerns about communal land rights, but allowed informal occupiers a period of just 12 months to formalize the legal title to their land. The legislative process was then passed on to the National Assembly. DW and Rede de Terra were both invited to present their research findings to members of the National Assembly and to political party groupings within it. As the focus shifted to the National Assembly, the role of the Land Commission was to provide information and advice.

Civil society in Angola has as yet little experience of advocacy or influencing members of the National Assembly. Similarly, members of the National Assembly do not have enough experience or the resources to conduct research or public consultations regarding pending legislation. The opportunity to discuss land law legislation with members of the National Assembly was widely welcomed.

The numerous specific issues raised by the research risked overloading busy representatives of the National Assembly with too much information

or complex analysis. The research findings were therefore distilled into two principal arguments. First, that the proposed land law did not adequately address the reality of the majority of Angola's poor who occupy land informally and have no title to their land; second, that the state institutions had inadequate capacity to deal with land-titling. The draft law's provision to allow only one year for people to regularize their titles to land meant that instead of protecting the vulnerable, the law risked making thousands of informal landholders illegal occupants of their own homes. DW–CEHS argued that the law must respond to the real conditions in which the urban population was living. The theoretically ideal situation, where land was empty and large-scale resettlement could be planned and implemented, simply did not exist. DW enlisted a former politician, a retired member of the ruling party who was also a lecturer at one of the capital's universities. This consultant had good contacts within the government and, more importantly, was held in high esteem by members of the National Assembly across the entire political spectrum. In this phase of advocacy, meetings were held with each party leader and relevant research documents were provided and explained. Briefings were arranged with each party group and with several National Assembly standing committees. All the members of the National Assembly who attended these briefings were receptive and eager to get as much information as possible. The idea of feeding research findings to the National Assembly was an innovation in Angola – especially since the initiative came from civil society. The fact-sharing sessions proved successful and eventually led to a meeting initiated by the Speaker of the National Assembly where more than 70 of its members engaged in active discussion (something almost unheard of in Angolan parliamentary history).

The final draft of the law was modified to partially address two of the key issues argued from the research. Senior government leaders conceded that the weak administrative and master planning capacity of the state could not permit the regularization of informal titles within one year after publication of the law. Civil society argued to extend this to within five years. Parliament finally agreed on a three-year period in the law that was passed in August 2004, with a provision that this could be extended a further three years if need be. A consensus was not reached in the National Assembly on the other outstanding issues, and the law was voted through on the strength of the ruling party's majority. While most members of the National Assembly were receptive and open to the arguments presented by the research studies, the Bill was passed with just one amendment – the one extending the period of title regularization. It may be the case that the legislators ultimately lacked the capacity to absorb all the complex information with which they were presented. However, the application of the voting discipline of the dominant political party likely played a larger role. As a result, the law that was given its final seal of approval by the president in December 2004 did not change substantially through the consultation process. The law put in place a framework to allow people to claim legal title, although it stopped short of guaranteeing that those requesting a formal title would receive it. It did not incorporate all the issues that civil society was arguing for, nor did it incorporate all of the principles of the Habitat II Agenda. The issue of urban land rights regulation was not incorporated into the law but was deferred to the subsequent process of developing by-laws.

The land law that was finally published left many issues unresolved and many questions that were raised in the research studies still unanswered, including the issues of peri-urban residents' tenure status and the just compensation of land and housing assets of the poor if expropriated for the public good. The new law in fact removed recognition of "occupation in good faith" and required everyone to seek formal land titles. Urban titles would be issued only on the basis of official planned and demarcated layouts. The state administration lacks the capacity to process the tens of thousands of title requests that will result when physical plans for all urban centres have been executed. A key recommendation made by DW to introduce a legal framework for the recognition of scalable or upgradeable occupation rights that could eventually be converted into full titles was also not included in the law. This provision would have made it possible for the state or municipal authorities to regularize informal settlements more quickly and easily and achieve their first objective of formalizing and titling land.

VI. TRANSFORMING LESSONS INTO SUPPLEMENTAL LEGISLATION

Senior policy makers in the Ministry of Urbanism and Environment (MINUA)[19] who had followed and often participated in the action–research programme acknowledged the usefulness of DW's evidence-based recommendations despite the fact that they had not been incorporated into the law passed by the National Assembly. The minister therefore commissioned DW to work with his legal office to draft a set of specific regulations for peri-urban land management[20] that could be published as a set of by-laws to govern those areas that did not fall under the jurisdiction of existing urban or rural legislation.[21]

For DW, this was a unique opportunity to re-introduce some of the key recommendations that it had drawn from the participatory research process, and also to strengthen the broad framework of land legislation by bringing it into closer compliance with the Habitat II Agenda. The proposed "peri-urban land regulation"had a high degree of ministry "ownership" and formed part of a package of other legislation and by-laws that MINUA presented for government approval. While having the legal force of a "regulation" rather than a "law", it was not to be applied universally, but still provides a framework for the application of land management procedures for the 75 per cent of urban populations living in peri-urban neighbourhoods, and improves tenure security for millions of Angola's urban poor.

DW assembled a network composed of experts who had worked on the Habitat II Agenda, on Mozambican and Brazilian land issues and on Angolan legislation. DW's own land team negotiated closely with the Ministry of Urbanism's legal department to produce the draft by-law and a training manual to be used by local authorities in the practical management of land allocation and tenure recognition based on the provisions of the by-law. The pertinence of the proposed by-law and guidelines for peri-urban land management became apparent in 2007 when the Council of Ministers passed the Law on Decentralization,[22] which created a new level of "municipal" governance and gave local authorities responsibility for managing the land allocation of housing-scale plots up to 1,000 square

19. The Ministry of Urbanism and Environment (MINUA) was created in 2003 out of the old Ministry of Urbanism (MINOPU); in 2008 it became MINUHA, with jurisdiction over urbanism and housing.

20. The Regulation Executive Decree for Peri-urban Settlements.

21. Decree on Land Concessions No 58/07 dated 13 July 2007 regulated mainly rural private farming concessions but did not deal with peri-urban lands nor smallholders or traditional communally held lands.

22. Government of Angola (2007), *Decreto – Lei 02/07 Sobre a Organização e Administração Local do Estado*, 2 January 2007, Luanda.

metres. The Law on Decentralization also institutionalized new consultative municipal councils, which will eventually become elected municipal councils. The councils potentially provide civil society with spaces to engage with local government administration and challenge them on issues such as land tenure and the development of municipal budget planning.

The by-law developed by the DW/MINUA team took the form of an Executive Decree on Peri-urban Land and included the following principal recommendations:

- consideration for rights acquired through occupancy in good faith, recognizing the investments made by residents in their houses and businesses in the process of upgrading their neighbourhoods through their own initiative;
- ensuring that women's land rights are protected, can be inherited and that rights acquired by households are shared equitably between wives and husbands under the framework of Angola's Family Law;
- extension of the time-frame for regularization of land occupation until which time the state authorities are able to review and act on all tenure claims;
- ensure the right of the public to information by obliging the government and its partners to disclose their planned interventions, including urban upgrading programmes and any proposed allocation or transaction of land concessions;
- regulation of processes for public consultation on land and physical planning in order to promote stakeholder scrutiny and participation in decision-making;
- guarantee transparency in land ownership, land use and land transactions through access to public records and cadastres;
- provide just and adequate indemnity, respecting due process for land expropriated for the public good, and prevent forced removals. Just compensation is specified to include, but is not necessarily limited to, the fair market value of land taken and any expenses incurred by the landholder as a result of the taking;
- introduce a framework for the scalable acquisition of upgradeable tenure rights over time, starting with "provisional right of occupancy", while also retaining the privilege to apply for greater or additional rights, including "surface use rights" and eventual "rights of ownership" and sale or purchase rights;
- establish procedures so that residents in peri-urban areas have the right to seek regularization of the land parcels from the municipal administration within the framework of scalable rights within the three-year or any extended statutory period.
- introduce simplified, non-bureaucratic procedures for communities or local municipalities to designate upgradeable peri-urban areas within existing settlements where a low-income population is already residing as Special Social Interest Zones (ZEIS). These are areas where urban services and tenure rights can be improved without the major displacement of populations; and
- designate appropriate, as yet undeveloped, areas as Special Social Expansion Reserves (REIS) for urban expansion, situated on the periphery of the urban area and that are suitable for the implementation of sites and urban services within a strategy of slum prevention.

VII. TRANSFORMING ADVOCACY INTO PRACTICE

The new land law introduced demanding requirements for large-scale urban master planning. Angola's cumbersome processes of land-titling meant that the relatively inexperienced government administration could scarcely manage the new responsibilities. DW's alternative recommendations, incorporated in the draft Regulation Decree for Peri-urban Settlements, outlined a strategy of incremental and upgradeable procedures that not only protected residents rights but gave the government a participatory mechanism to prevent new slums and, step-by-step, improve the existing ones. In order to demonstrate the feasibility of the participatory approach to land management, DW negotiated a series of pilot demonstration projects with the Ministry of Urbanism to be implemented with several provincial governments. The CEHS ran a course in the principals of participatory planning for more than 20 national and provincial level staff using the recommendations and guidelines mapped out in the manual produced by DW. The training course was a practical exercise in developing a land management plan for the provinces of the government representatives who attended. DW and MINUA jointly raised the funding for the demonstration projects, which were piloted in the province of Huambo[23] and subsequently in Cabinda, Lunda Norte[24] and Benguela.[25]

 The pilot projects were all implemented under the auspices of government partners and introduced the new role of municipal authorities in administering the attribution of land tenure rights to existing residents and families receiving plots. The pilot projects were used to demonstrate in practice the set of principals mapped out in the Executive Decree on Peri-urban Land. They were also seen as training opportunities to develop the skills of municipal authorities in land administration. The projects implemented procedures of participatory planning and developed simple methods for mapping land claims using satellite imagery and GPS,[26] titling and building cadastres that were open to public scrutiny. The projects employed innovative solutions to dealing with conflicting claims by introducing the concept of "land-pooling", whereby existing informal occupier/users of land received compensation for land contributed into the pool in the form of titled and urbanized plots of a higher value, based on a ratio of 1:3.[27] The planning process of laying out plots, designating service lines and access routes, and titling added considerable value to the land. New plots created through the land-pooling process were sold on the basis of a waiting list managed by the municipal administration. The sale of plots fed a fund that invested in the provision of infrastructure such as road clearances and essential services such as water standposts.

VIII. MOVING TO SCALE

While the five pilot projects implemented between 2006 and 2009 have produced a body of good practice, the challenge remains to take the experience to the national scale. Angola's post-war years have seen unprecedented economic growth fuelled by the expansion of its oil sector. Growth, however, has been skewed and inequitable, often excluding the poor. Land values in the urban centres have risen quickly. Ironically,

the poor living in old inner-city informal *musseque* settlements find themselves occupying some of the most valuable land. Increased land values, rather than benefiting poor residents, often put them under threat as the insecurity of their untitled occupation becomes apparent and they become targets for expropriation. Commercial property developers, using the framework of public–private partnerships, have been able to use the provisions of the 2004 Land Law to accumulate land under the provisions of "private and public good" and forcibly remove existing residents.

A massive demand for housing of all categories existed in Angola at the end of the war. The shortfall is estimated at between 600,000 and one million units[28] in Angola's population of 18 million. In October 2008, at the launch of World Habitat Day in Luanda, the Angolan president made a public commitment that the state would build one million housing units before the next elections in 2012. A reconstituted Ministry of Urbanism and Housing was mandated to amass the required land. The minister, drawing on recommendations for the creation of Special Social Expansion Reserves (REIS) outlined in the peri-urban regulation, which was still waiting for final approval by the Council of Ministers, launched a plan in 2009 for designating land for housing reserves (*reservas fundiarias*) across the country. Fast-tracking the creation of land reserves, while potentially slowing the growth of new slums, also raised the risk of introducing new land conflicts unless participatory approaches and adequate indemnity were offered to peasants already occupying those peri-rural lands. Because many of the first housing reserves designated for "social housing" were not contiguous with existing urban settlements but tended to be greenfield sites a distance from the urban periphery, they risked resembling apartheid-era townships that excluded the urban poor from the fabric and employment opportunities of the city.

28. *Novo Journal* (2009), "Programa nacional de urbanismo e habitação", Luanda, 4 December.


PHOTO 1
Self-help building in a zone of *auto-construção* on the periphery of Luanda
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IX. LAND FIRMLY ON THE AGENDA

The public consultation on the land law, and the issues identified by the various action–research studies, successfully put land onto the public and political agenda, where it has remained ever since. The DW research programme, and the way it was put into practice, had several positive effects. The contribution of civil society to the land law consultation put the issue of land tenure rights firmly on the political agenda. Political parties in Angola are now much more aware and have a better understanding of the development issues related to urban policy and land. Although the advocacy process exposed real knowledge gaps on the part of legislators, it also helped fill in some of those gaps. The evidence-based policy-influencing based on action–research provided opportunities to challenge some of the assumptions on which the draft law was premised and to offer "positive criticism". The process became a practical example of "proactive" as opposed to "confrontational" advocacy. All of the principal political parties eventually incorporated policies on land tenure into their campaign platforms in the lead-up to national elections in 2008.

Legislators responsible for formulating the land law were both much better informed and eventually held more accountable by way of an increasingly interested public and an independent media. Subsequent to
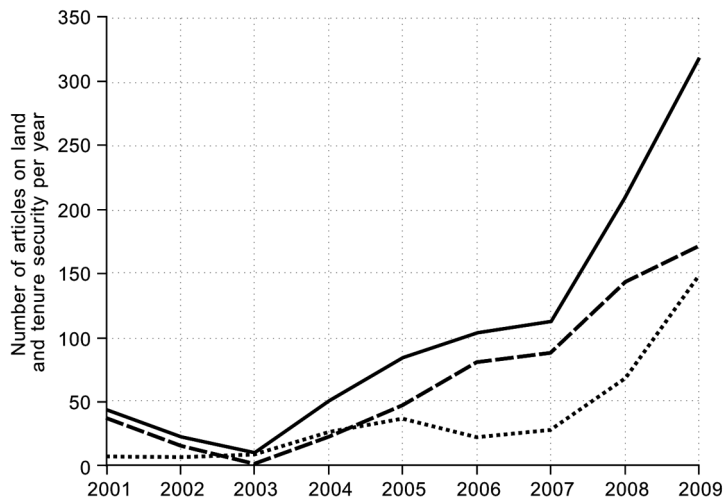
	2001	2002	2003	2004	2005	2006	2007	2008	2009
Total number of articles	44	23	10	50	84	104	112	209	319
Independent media	37	16	2	23	48	81	87	143	171
State press services	7	7	8	27	36	23	25	66	148

FIGURE 3
Changes in media coverage of land and tenure security issues
(2001–2009)

SOURCE: Development Workshop Documentation Centre (CEDOC) Media Scan Project, Compilation of archived published articles since 2000.

the publication of the land law, the media began to provide good coverage of land issues. Forced removals or perceived violations of people's rights in relation to land are followed regularly by the press. The national media in particular, but also some international publications, have expanded their coverage on Angola to follow the legislative debates as well as specific cases of land conflict. Both independent and state media coverage has increased more than ten fold over the years since 2002 (see Figure 3). The widening public awareness and heightened concern about land issues may have influenced the National Assembly into providing more time (three years) for the process of land regularization. After the publication of the land law, Rede de Terra and other civil society actors recognized the importance of the media and turned their attention from parliamentary advocacy to raising public awareness. With elections being promised[29] imminently, the debate has been taken into the public arena and the independent press has become a principal conduit for disseminating information on land tenure issues.

DW and its partners also worked on voicing the concerns of civil society, but not all of their suggestions have been acted upon and many issues remain unresolved. While the new land law allows the regularization of informal occupancy and sets a timeframe for this to be carried out, it stops short of recognizing this principal as a basic right. The research team was unable to effectively penetrate and analyze the emerging real estate market, which was largely controlled by elite commercial and government interests. The land law that was published strengthened this commercial sector by introducing, in urban areas only, a new mechanism of freehold title. This allowed so-designated land to be bought and sold freely and not be restricted to the limitations of "concessional titles", which are still in force in rural areas and were subsequently regulated by the set of by-laws published in 2007.

The land consultation process was the first of its kind in Angola. The ability to influence policy through targeted and proactive advocacy is an extremely important step forward to wider and deeper democracy. The implications of the land law and the results of research were presented to community forums throughout the country by Rede de Terra. Community members, especially those with grievances, were encouraged to present testimony to the Land Commission that held hearings in every province. The consultation process, and the advocacy role within this, needs to be viewed primarily in the light of building democracy in Angola. In addition, the strong partnership working ethos built up thus far through the process provides the basis for continued refinement of the law, through regulations and practice, which provide on-going opportunities to help produce a more realistic and workable land management system.

The strategy for advocacy however has shifted, acquiring a local and municipal focus. The implementation of the housing land reserves has been assigned to provincial governments, and the administration of tenure rights has been attributed to municipalities. The democratization of these levels of governance has been slow, but civil society and members of Rede de Terra, similarly to Development Workshop, have re-directed their attention to engaging with municipal councils and the promotion of participatory municipal planning. In the municipalities where DW has implemented pilot participatory land management projects, the principals have been rolled into the process of producing integrated municipal development plans. Action–research, drawing on many of the methodologies employed in the national scale post-war land study, has

29. Parliamentary elections were delayed repeatedly and finally held in September 2008. Shortly after the new parliament took their seats, the president announced that the new government would commit itself to building one million low-cost houses within their four-year mandate.

been incorporated into the developing of municipal profiles,which has been widely accepted as the first step in the municipal planning process.

Advocacy on securing land tenure rights in Angola has taken multiple approaches, from promoting the principals of the Habitat II Agenda, through partnership with government on action–research, influencing policy with Parliament and the Land Commission on the land law, drafting subsequent regulations using by-laws, engaging government implementation agencies in pilot demonstration projects, to the incorporation of these principals into municipal plans. In parallel, civil society continues to be engaged in direct advocacy through the Land Network, the media and municipal consultative councils. At the time of writing, land remains the hottest item on Angola's civil society agenda. Ironically, the end of the war and the emergence of new economic forces have resulted in long-submerged land conflicts coming to the surface. This paper has demonstrated how participatory approaches and the opening of more democratic spaces for civil society have been used to promote more inclusive land policies in Angola.

REFERENCES

Cain, A (2010 forthcoming), "Angola: land resources and conflict", Chapter in *Post-Conflict Natural Resources Management*, United Nations Environment Programme (UNEP) and Environmental Law Institute (ELI), Washington, DC.

Development Workshop (2003), "Land access in peri-urban Angola: its role in peace and reconstruction", Luanda, September.

Development Workshop (2005), "Action–research as an advocacy tool to influence Angola's land policies", in Development Workshop Occasional Paper No 5, Chapter 11, Luanda, pages 157–166.

Development Workshop and Centre for Environment and Human Settlements (2005), "TERRA – urban land reform in post-war Angola", Development Workshop Occasional Paper No 5.

Government of Angola (2007), *Decreto – Lei 02/07 Sobre a Organização e Administração Local do Estado*, 2 January 2007, Luanda.

Jenkins, P (2004), "Querying the concepts of formal and informal in land access in the developing world: the case of Maputo", in M Vaa and K Hansen (editors), *The Formal and Informal City – What Happens at the Interface*?, Nordic Africa Institute, Uppsala, pages 210–226.

Novo Journal (2009), "Programa nacional de urbanismo e habitacao", Luanda, 4 December.

Pacheco, F (1998), "Sobre a propriedade comunitaria de terre", Paper presented at an FAO Workshop on Access and Use of Land, Luanda.