



DEVELOPMENT WORKSHOP
Desenvolvimento Comunitário
Human Settlements & Development

CP3360 · Luanda · ANGOLA
Rua Rei Katyavala 113 · Luanda
Tel: (244 222) 448366 / 71 / 77 Fax: 449494
Email: devworks@angonet.org
www.dw.angonet.org

PROPOSAL

ANGOLA – URBAN LAND RIGHTS PROJECT

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ANGOLA – URBAN LAND RIGHTS PROJECT

PROJECT OVERVIEW:

Title:	Angola - Urban Land Rights Project
Funding Requested:	USD 15,500.00 (Phase I)
Estimated Duration:	12 months
Research Coordinator:	Allan Cain (architect) Director
Implementing Institution:	Development Workshop C.P. 3360, Luanda, Angola Tel: 2442-348371 Fax: 2442-349494 E-Mail: devworks@angonet.org

The Development Workshop (DW) is a human settlements NGO working in Angola since 1981 on projects of urban upgrading, rural resettlement and self-help construction. DW has collaborated with local government, NGO's and international organisations in their Angolan programme.

Development Workshop has been involved since 1986 in a series of urban development initiatives aimed at upgrading physical and environmental conditions and services for populations living in Luanda's "Musseques" or informal settlements.

SUMMARY:

The present project proposes an investigation of the current policies, laws and regulations pertaining to the management of urban land. The difficulty in obtaining titled (legal) access to land for prospective builder occupiers and the need for thousands of existing residents in informal settlement areas to gain secure tenure for the plots they are now occupying is a major constraint to upgrading Luanda's vast peri-urban settlements (musseques). The Angolan state's recent (1992) liberalization, reformed previous socialist land laws and now allows for the involvement of the private sector in the acquisition of land. The project will research the evolution of the complex land tenure situation and study the problems of access to and management of land from the points of view of the principal actors (stakeholders). A review of lessons, from several other developing countries, which have experienced a similar transition from socialist to forms of private ownership of property, will be made as they relate to land tenure. The project will be divided into two phases, the first of which is presented to the IDRC for consideration for funding, includes documental and archive research. The second phase involves participatory field research with the aim of producing a stakeholder analysis.

BACKGROUND:

Problem to be Investigated:

The lack of a framework and a policy for managing urban land is one of the key constraints to urban development in post war Angola. The upgrading of Luanda's extensive Musseques and urban growth in general will depend on the release of public, private and domestic (household) investment to improve housing, urban services and infrastructure. Insecurity, manifest in various forms, is the principal deterrent to urban investment. The Urban sector has been stagnant since independence and only came to life for a short period with economic liberalization after the Bicesse agreement in 1991. All investment dried up once more after the return to civil war in late 1992 and only cautiously resumed following the formation of the Government of National Unity in early 1997. The lack of security of land tenure and transparent mechanisms to acquire property is one of the factors that inhibit investment in the urban sector today.

Access to land in Luanda is currently governed by a confusing (often contradictory) set of laws, policies, and procedures. Portuguese colonial (pre-1975) land laws and registration system supplanted African traditional forms of communal land tenure. Nationalisation of land by the state in 1976 through a series of Presidential confiscation decrees attempted to place land once more under the patrimony of the Angolan people. Since 1991 the policy of privatisation of the economy has been introduced but mechanisms are not yet in place to allow individual informal settlers to secure tenure rights to the property on which they have settled. Within the vacuum produced by the lack of legal structures and public information, large parcels of land for commercial housing development are being distributed. Within the next few years it is anticipated that conflicts will arise between those who have settled informally and those entrepreneurs and official agencies promoting the commercial development of sub-urban property. Mass evictions and lengthy legal disputes will be the likely outcome.

Some interested international observers advocate 'privatisation' as a panacea for Angolan urban land tenure problems. The present project will draw on the lessons from a number of case-study countries which have or are presently undergoing a transition from socialist to market economies. In countries like Mocambique, Tanzania and Ethiopia a variety of land tenure strategies have been tested, reflecting a range of socio-institutional conditions and traditions of collective and public forms of ownership.

Within the context of the present project, Development Workshop plans to carry out a research study to clarify the status of land tenure laws today and to identify the directions of evolving policy on land issues. It is DW's intention at a later phase of the project to make information obtained widely available through the distribution of simple manuals and through training community development workers to assist residents in clarifying their land tenure or occupancy status. Of particular interest is women's rights to acquire and inherit land titles.

Luanda's Urban Crisis

Luanda's distinctive urban structure evolved due to a lack of effective colonial planning policy: the spontaneous townships ("musseques") were encapsulated by formal sector urban growth. Following independence peri-urban uncontrolled expansion began in the margins of the city. Due to the ongoing affects of the civil war Luanda continues to expand rapidly in area and density of population concentration. Population estimates of 2,500,000 are broken down into 25% in the urban area (3,000 ha) and 75% in the peri-urban areas (10,000 ha). The population annual growth rate is projected at 8% to 10%, although there is evidence in some Musseque areas, that growth rates of 15% or more occurred during the years of 1992-93 when an estimated 350,000 to 500,000 war displaced fled the fighting in neighbouring provinces and immigrated to Luanda. Peri-urban communities have almost no infrastructure, and recognisable public services function only in the area of health and education. These minimal services, however, have disintegrated through a combination of neglect and the lack of maintenance.

Government actions to date have not been sufficient in maintaining the existing infra structure left from colonial times which was designed to meet the needs of 250,000 Portuguese residents. While

major infrastructural projects have been planned to extend water and electricity to a greater number of people, little has been implemented and the targeted beneficiaries have normally been those living in formal already urbanised zones of the city. There has to-date been no discernible impact from these planned projects on living conditions in the musseques; in fact the situation has deteriorated with rising population densities as the minimal infrastructure falls into disrepair.

The government's previous policies of centralised state control of resources and investments have been recognised as inadequate. Under both international and domestic political pressure the Government in 1991-92 made a major reorientation toward a liberalisation of policies and a decision to privatise many sectors. The potential privatisation of land however presents a complex problem. Much of Luanda's post independence housing is constructed 'spontaneously' (informally) on land without a clear title and without the benefit of building permission. Complex moral and legal problems arise when the issue of privatisation of land is considered. Previous private title-holders were often foreigners who gave up any claim to Angolan citizenship when they fled the country at independence. An adoption of the 'market' principal of a private land ownership, could transform the State into the largest owner of private land in the country, and thousands of householders would in turn be transformed into 'squatters' on the lands that they had occupied for years.

Rather than addressing the issue of the individual householder's land claims, the State has identified the opportunity that the new situation presents to partner with major private sector investors (often joint ventures with foreign enterprises) in developing large-scale commercial housing projects. Much of the land in southern Luanda has been destined for this type of mass housing development.

Institutional Constraints:

Administrative reform is considered by most policy makers to be long overdue. A reform process is likely to result not only in the restructuring of local government in a more democratic or a downward-accountable mode but also to deal with the question of the distribution of decision making power to the appropriate levels of local government. Along with decision making power the actual control of resources - financial and technical - must be distributed as well. Introduction of a degree of cost recovery is also a concept under consideration. The introduction of local sources of revenue such as through property taxes or other types of levies can assist in empowering local government structures as long as the central government does not insist that these revenues must all pass through the state treasury as before.

The introduction of property taxes or other forms of local-level income generation can only be done in conjunction with land ownership legislation. A cadastral survey of existing plot divisions and claims to ownership rights is a part of this process. The granting of land tenure rights to residents in the musseque could potentially be the most significant factor in stimulating investment of private household income in housing and environmental improvements. Householders presently are reluctant to invest their family savings in their homes due to lack of security of ownership and the often-stated official view that these zones are illegal or temporary at best.

"Governance" Context

Local government administrative policy has been characterised over the years by the tendency toward strong centralisation at national level. Angola inherited at independence a centrally controlled government structure from the Portuguese colonial power which itself lacked any democratic tradition. The Central Planning development model opted for after independence tended to reinforce this structure.

The Angolan economy, being essentially fuelled from the sale of petroleum on the international market, lends itself to centralised management. There has been no attempt to establish a tax base or to raise public funds locally. Lines of authority therefore quite naturally follow the lines of economic accountability. Financing of social services and urban infrastructure are all controlled at the national level of government. The central government authorities make appointments to positions in the local administration. Lines of responsibility and decision making therefore follow a top-down command structure.

The fact that local government does not have its own source of income - i.e., there is no basis for local property taxes or other revenue sources and the policy that all public revenues in any case must pass through the state treasury - means that there is little flexibility in planning. Financial resources are available to the provincial government only through the Plan for the provision of urban services. Municipal government essentially controls only enough money to pay their small staff and the Commune level has virtually no resources at their disposal.

The Ministry of Territorial Administration (M.A.T.), created at the time of the 1991-92 reform, has as one of its important mandates the strengthening of civic institutions and the creation of democratic governance structures throughout the country. M.A.T. was instrumental in managing Angola's first multi-party elections in 1992 and presently is charged with the installation of Government authority in territory relinquished by UNITA. The results of this new ministry's work are likely to have a major influence on local government administration and its relationship with other levels of government.

Possibly the most important policy issue affecting urban development is the ownership and control of land. With independence the formal ownership of all land previously held in private hands passed to the state, although rights to use and control of property generally remained with those who occupied it. Governmental decrees were used to confiscate abandoned properties but a formal system of laws has not been put in place to regulate these acquisitions.

Land use policy is assigned to the Ministry for Territorial Administration's "Institute for Territorial Planning" (IPT). IPT is responsible for advising local governments on urban zoning and land-use policies affecting housing, industrial and commercial use of land. The Provincial Governor's technical office controls the actual distribution of plots of land. Lacking up-to-date cadastral surveys and the necessary technical staff to manage the process, the demand for building plots far outweighs the technical offices' capacity to approve, survey and register them. A significant portion of the population accepts forms of informal occupation. Unregistered buying and selling of property is common.

The government and almost all opposition political parties have adopted private ownership of various forms of property as their stated policy. Much legal and technical work needs to be carried out if the new policy is to be applied in some form to land ownership. A number of years of detailed cadastral survey work will still be necessary before any new policy can begin to be implemented.

OBJECTIVES:

General Objectives:

To contribute to the understanding of evolving urban land tenure issues in Angola following the abandonment of the one party state.

Specific Objectives:

To understand the direction of current policy considerations regarding land as they reflect the interests of stakeholders and decision-makers.

To clarify the existing framework of land laws and constitutional articles defining the legal status and ownership of land.

To gain an understanding for, and document, the regulatory mechanisms employed in the administration of urban land use and occupation.

To assess constraints on householders and potential home-builders in obtaining right of tenure to land which they already occupy or wish to occupy.

Through a comparative analysis of case studies of several countries which have undergone similar transitions from state controlled forms of land ownership to a private system of land ownership, draw lessons which may be applicable to the Angolan situation.

RESEARCH METHODOLOGY

Hypotheses:

1. **Potential Conflict:** The post-socialist transition of the legal status of land, the process of its transformation into a marketed commodity and new mechanisms put in place for its management have the potential for conflict creation. Potential conflicts could evolve between existing occupants and users of urban land and other actors such as Government and private sector developers.
2. **Policy Vacuum:** The lack of attention by government to policy formulation on land and urban development issues will tend to reinforce the status-quo, leaving the process of transformation from pre-private sector modes incomplete. There will likely be strong central control mechanisms left in place that may tend to over ride the interests of the small householder.
3. **Weak Regulatory Mechanisms:** The reforms in local government administration necessary to put an effective land management structure in place may be slow to develop because of other pressing administrative priorities (such as extending national sovereignty to occupied regions). A major investment will be needed to build a land registry that must be based on an up to date cadastral survey. The limited human resource pool available, poor salaries and corruption in local government are constraints.
4. **Legal Framework Insufficient:** The civil courts are the appropriate forums for resolving disputes arising from contradictory or unclear land regulations. The Angolan courts do not have the capacity to handle the large number of disputes which will inevitably arise once the conflicts for land increases and overlapping land rights claim are argued.

PART I ARCHIVAL AND DOCUMENTATIONAL RESEARCH:

Literature Review

While there exists a substantial body of literature on land rights and land tenure issues as they relate to countries in the southern Africa region and developing countries in general, there are no recent published materials on the issue as it relates to Angola. The transformation from socialist forms of control to private/ market systems of land ownership which has occurred in recent years is beginning to be studied in several post-socialist countries and some published materials are now available. A review of these materials will be the first phase of the proposed project.

A case study approach will be used to survey literature published on countries which have undergone a transition from some form of collectivist or socialist system toward a market system in recent years. Additional case study countries have been selected that have undergone significant urban land reforms which may yield particularly interesting or relevant information to that current study. Case studies will briefly consider the changes that were made to policy, regulations that were adopted and the impact on families' access to land. While the affect of changes to general land distribution will be noted a focus will be made on the urban sector. The case studies will highlight common issues in the transition from socialist to market systems that may affect land tenure but also highlight the particular problems that occurred in each country. It is anticipated that useful parallels can be drawn to the Angolan situation and that lessons can be offered.

Case study countries will include Mozambique, Ethiopia, Tanzania, Nicaragua and Peru.

From the literature review short papers will be produced on each case country. Salient issues drawn from other peoples research on land rights issues will be highlighted. The relevance to the Angolan context will be discussed in each case.

An annotated bibliography on Urban Land Tenure in post socialist developing countries will be produced.

A graduate research assistant who will work in collaboration with Development Workshop's office in Guelph, Ontario, will carry out much of the documentation research. The research assistant will have access to the university library at Guelph University (including inter-library loan facilities). Internet documentation research will also be facilitated through DW Canada's office.

Regional Exchange of Experience:

Participation is proposed in a southern Africa regional conference on land tenure to be held in Cape Town in early 1998. The conference will gather experts, researchers and practitioners working on a wide variety of issues related to land rights. The southern African dimension will be particularly valuable in the context of the current project. Participation in this conference will coincide with the early stage of formulation of the project and will give the research coordinator the opportunity to discuss the project with others working in the field and allow time to adapt the research in line with recommendations that may be received.

Archival Research:

Very little has been published concerning land issues in Angola since independence in 1975. It will be necessary to consult original documents that exist in the form of government decrees and regulations in the official "Diario da Republica". MPLA party policy papers will also be consulted. Earlier colonial documents related to land issues will be abstracted from the official Portuguese Government gazettes. A considerable amount of information was printed in official Portuguese Government publications that dealt with land occupation (confiscation) and settlement of European colonists which was a major preoccupation of the colonial regime in the last two decades before independence. These documents may be consulted in one of several documentation centres in Luanda (including ADRA, DW, UNICEF and the Min. Planning). The research coordinator will be assisted in this archive research by a research assistant/documentalist based at the DW documentation centre in Luanda. A legal expert will be employed as a consultant as required.

The archival research from original sources (in Portuguese) will be supplemented with other published information written on Angolan history, culture and urban development with the aim of tracing the evolution of policy and practice and laws governing the ownership and use of land.

Key issues that will be addressed in this part of the research can be divided chronologically and sequentially as follows:

pre-colonial – *customary law*

colonial – *expropriation of African lands*

independence – *socialist land policy & nationalization*

post-socialist phase to present – *liberalization/private sector involvement*

PART II (see annex)

PLANNED OUTPUTS:

1. Narrative Document
2. Annotated Bibliography
3. Documentation collection
4. Comparative Case Study paper on post-socialist land policies with lessons learned for Angola
5. Lessons on how the formal and informal urban sectors interact on land questions

USE OF RESEARCH RESULTS:

The issue of land rights is a contentious matter and has the potential for developing into an area of serious conflict. There may therefore be sensitivity on the part of government to study conclusions that could be considered to be an open criticism of current policy. Results of the study therefore must be presented in a non-provocative manner. The research is meant to stimulate and input into the incipient policy formulation process on urban land questions.

The research results should be fed back to the various groups of actors, with the intention to establish a sense of ownership of the information and conclusions.

It is hoped that the research document and the lessons learned from the case studies will make a valuable contribution to land policy-making and decision making.

BUDGET: Phase I

(USD)

Research Coordinator 5 months (part time)	\$ 7,500.00
Research Assistants (2) for 6 weeks each	\$ 3,000.00
Consultant (legal)	\$ 500.00
Documentation procurement	\$ 500.00
Printing	\$ 500.00
Communications	\$ 250.00
Research costs	\$ 250.00
Report preparation, secretarial & translation	\$ 1,500.00
Overhead Costs (13%)	\$ 1,820.00
Total Funding Requested Phase I	<u>\$ 15,820.00</u>

ANNEX

PHASE II

PARTICIPATORY RESEARCH

Objectives:

To stimulate and input into the incipient policy formulation process on urban land questions.
To assess constraints on householders and potential home-builders in obtaining right of tenure to land which they already occupy or wish to occupy.

Stakeholder Analysis:

The land issue has various dimensions that will be viewed from the perspectives of the different actors who are involved in either taking decisions about land or who are affected by these decisions.

Key actors involved in the sector are:

Government members mandated with policy decisions or the writing the laws that determine how land is to be used and how and to whom it is to be distributed or sold.

International donors who have a vested interest in influencing the reform of land policies as one aspect of the economic liberalization process that they are promoting for Angola.

Administrators employed in the civil service who manage, document and approve the occupation and transfer of land titles or rights of use.

Commercial land or property developers who employ land as a commodity in programmes of urbanization, housing or industrial development.

Residents or potential occupiers of land in the informal and peri-urban districts of Luanda who may not have legal title to the land where their housing has been or will be constructed.

The purpose of this phase of research will be to assess the interests of key actors /sectors involved in the land tenure issue and how they take decisions on the course of action they may choose. Considerations include:

The objectives or goals that each actor has in relationship to land.

The scope that each actor has for decision-making, the range of options open to them.

How decisions are made, how the various factors are valued or ranked.

Which strategy actors have adopted to promote their special interests in relationship to land.

The relationship / communication / exchange between the different actors.

Research Methods:

Various modes of participatory research will be employed in this phase of the research.

Published papers or working documents will exist outlining policy directions or positions of the first two categories of actors; government decision makers and international donors.

Regulations employed by land administrators in the local level civil service will also be previously recorded. Key informant interviews will be used to obtain information from the principal categories of actors mentioned above. Focus groups will be the most effective means of obtaining information from informal sector residents groups.

Development Workshop has on staff experience in participatory research and will mount a team in order to conduct both; key informant interviews and focus group studies with the appropriate groups of actors. A set of survey tools using "open-ended questions" will be designed and tested as part of the research design phase. Communities will be pre-selected to include old inner city

musseques and new peri-urban settlement areas on the periphery of the city where focus groups will be conducted to discuss land tenure issues with residents and potential new builder/occupiers.

Outputs:

Narrative report
Lessons on how the formal and informal urban sectors interact on land questions
Manual for community development workers on practical land-rights issues of relevance to residents and home-builders in the peri-urban neighborhoods.

Budget Outline: (to be developed at later date)

Expert Researcher (PRA)

Participatory Research Team

Team Training

Field Team Research Costs

Transport (rent vehicle)

Driver

Translations

Printing

Communications

Programme and Logistics Support

Overhead Costs

Budget Phase II

TOTAL PROGRAMME COSTS: USD 35,000.00