ANGOLA: Interview with Development Workshop director on land rights

LUANDA, 27 Nov 2003 (IRIN) - Recognition of the right of the poor to land is vital to forestall future conflicts over ownership and access in post-war Angola, according to Allan Cain (architect), director of the respected NGO, Development Workshop.

Aid and humanitarian agencies are concerned over a draft law proposed by the government and have criticised it for failing to safeguard the interests of rural peasant communities - where fertile, agricultural land is in high demand - against more powerful interests.

But the problem is as serious – if not more so - in urban areas. In the major cities, especially around the capital, Luanda, many families who fled fighting in the countryside ended up occupying or buying land on the informal market from people who usually had no legal title to it. In peacetime, this is now prime property for commercial interests and the poor run the risk of being turned out of their homes as businesses with deep pockets clamour to snap up city-centre and suburban real estate.

IRIN spoke to Allan Cain about the problems facing this substantial peri-urban population, and how solutions proposed by his organisation could help alleviate poverty and boost government revenue.

QUESTION: We have heard a lot about the potential for land conflict in the rural areas, but what is the scale of the problem among urban populations?

ANSWER: The peri-urban community around the major cities is probably the largest sector of the population, and the fastest growing sector. Well over 50 percent of Angola's population is in urban areas and we’re talking about 80 percent of those people. That is a huge block of the country and, in Luanda, it accounts for three million people.

During the war there was big migration into the cities. Many of those people settled and purchased plots of land through informal markets. For the poor and the displaced people in the country there has been almost no land made available officially on the commercial market.
What little bit of land which has been made available, is more for middle- and upper-class housing, such as new development areas in the south of the city.

Many poor people have papers showing they bought the land, but that's not a title deed. It's just a document which shows they bought the land from somebody who probably did not own it, or probably did not have permission to sub-divide it. All these people are at risk because they don't have formal occupation.

Q: Why is there potential for conflict?

AC: There have already been some fairly significant conflicts. In Boa-Vista (a suburb of Luanda) there was a major forced removal of people from the centre of the city. In south Luanda, in Benfica, commercial enterprises are acquiring land and there have been forced removals there as well. The government is moving them. In both cases there was a lot of resistance and people were killed, but I think these cases are the tip of the iceberg, frankly.

This could become a major point of conflict in the future here, if people's occupation rights are ignored. They've invested in their land, their houses, and if they lose right of access, they are excluded both socially and economically. Many people say they should go back to the countryside, but rural opportunities are even rarer than urban opportunities, and under the government's norms for IDP (internally displaced persons) resettlement, it's a basic right of every citizen to choose where they live. You can't forcibly remove people; you can only provide incentives for people to go back to the countryside.

Q: How will the government's draft land law, which aims to reform the complicated and controversial issue of land tenure in Angola, change the situation?

AC: Under the constitution the land belongs to the state, but people have occupation surface rights. At the present time, many occupy without title, but it's not illegal. They have some protection; some recognition of occupation under the civil code. Under the first draft of the land law, residents in peri-urban areas would lose more than they would gain. It risks annulling all these informal occupations and making all of those people who occupy land informally, illegal. That's a big concern.

Q: What are your proposals for the second draft?

AC: The government needs to recognise that these people have settled there in good faith - there was no intention to break the law. People have tried as best they can to acquire places to live legally, and the government has had no capacity to provide an alternative.

It's important to take the opportunity of this publishing of the new land law, which is imminent, to incorporate these principles and set up a mechanism for formalising that informal occupation, to provide some simple means for people to acquire right of occupation.

We are arguing that these rights need to be articulated and regulated, and rules need to be set up. The law needs to be based on real understanding and research. We've spent the last two years trying to understand these processes: how people acquire land when the state isn't there to deliver it, existing land ownership patterns. These methods, which the vast majority of people use, should be recognised and formalised somehow.

Q: Is that an easy thing to do?

AC: While the problem is a complex one, some of the solutions are really quite simple. Huge amounts of investment will be needed, 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.
Regularising land rights will unblock a lot of people's own capital for improving their housing conditions. It's also an opportunity for the state, because in that process it has an opportunity to impose local rates and taxes, and transfer duties or titling duties. In most countries this is how local government services are funded. We have a huge lack of services in urban areas but, through a process of regularisation of ownership and land rights, it could be a real opportunity for the government to get resources for investing in basic services like water and sanitation.

There's a huge real estate market that exists largely unofficially, and very little land is available on the formal market. There's great pressure - a huge demand - for land for commercial property, for oil company housing for staff, etc, but there's very little available. That substantial demand, and a lack of supply, inevitably leads to a rise in prices.

That's not necessarily negative. If prices go up, and the land is largely occupied by the urban poor, they could, and should, benefit from that market. It's one of the ways of addressing urban poverty - a lot of the poor are living on very valuable land. Our view is that they should benefit from that land, and so should the government by collecting rates and taxes. But the process has to start with the recognition of rights. If the government wants to use the land for schools, road clearance, parks etc, it cannot offer titles, but it can recognise people's rights, and make sure they are reasonably compensated. Monetary compensation is the way it's done elsewhere in the modern world.

Q: Are you optimistic that the government will heed your advice?

AC: We are concerned that the new law, while providing the three year window, does not make provisions for upgrading occupation rights for the hundreds of thousands of families living in informal urban settlements. We are hopeful however that the issue will be addressed in regulations and by-laws which are currently being discussed. We are certain that this strategy will make sense to those drafting the regulations; that it is logical, and will produce a better law for both urban and rural people. More can be achieved in terms of social change by building on good practice. These recommendations are not new but are drawn from guidelines set out in the UN Habitat Agenda that was endorsed by the Angolan Government in Istanbul in 1996 and have since been incorporated in to legislation of several other countries in the region. Providing urban land rights should be seen as a development opportunity for the Government, rather than a problem.

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1 Development Workshop (DW) is a non-profit organisation which helps the urban poor living in human settlements with shelter, water supply and sanitation, primary health and small enterprise development, as well as building and planning. Its strategy is to strengthen the capacity of communities and organisations to act on development problems and opportunities.