

***COUNCIL OF ANGOLAN LAWYERS
NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL
AFFAIRS***

LAND AND THE CONSTITUTION IN ANGOLA

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Ladies and Gentlemen,

Firstly, allow me to greet the National Democratic Institute for International Affairs (NDI), an organization linked to the Democratic Party of the United States of America and to the Council of Angolan Lawyers, for yet another initiative to promote the participation of citizens in the country's political life and in the debate over the issues which affect them, within the “Civil Society Intervention in the Constitutional Process” Project framework. From all accounts, this is a valid initiative that is important to emphasize and to also encourage its promoters to follow the same route, as the usefulness of such previous ventures has been demonstrated.

Please also allow me to thank the invitation that was extended to me to be here with this introduction to a new debate, and which I was delighted to accept, as it is a happy opportunity for me to provide another contribution to the “battle of ideas” which the organization that I am connected to, ADRA, has tried to stimulate with the aim of improving the knowledge about the country and of looking for new ideas for a sustainable development and for the construction of a democratic culture. As it has happened on other occasions, I must say that many of the ideas that I will express here are the result of the debate that we maintain at ADRA, at various levels, on so important, and at the same time, so forgotten, a subject.

I have also accepted to participate in this debate because I'm convinced that it is fundamental for the future of Angola to change the state that the debate and scientific research on the awareness of the country's reality is in. Dr. Inglês Pinto, member of the Council of Lawyers, has mentioned that the South African Ambassador in Angola had said that in his country this matter of land had been the one to have received more proposals from its citizens who wanted to contribute towards the drafting of that country's Constitution. If you allow me, I would say, with deep sadness, that I feel this will not happen in Angola. I say this because I'm concerned about the alienation with which urban citizens, political parties and our country's leadership look at the land issue. A quick consultation to party

programs and their electoral programs in 1992, allows me to conclude that, in general, the issue is either forgotten or is too superficially dealt with. Party leaders rarely speak about this issue in their statements and they are not even aware of its importance. I return to the question of knowledge. Sometimes, I have the uncomfortable sensation that to study and to make known certain aspects of our reality may seem somewhat exotic due to the disdain with which various types of power look at this question of knowledge. In the particular case of land and rural issues, which still concern the majority of the population, such alienation is particularly serious. As one knows, different knowledge systems are produced and sustained by certain social practices. Leading elites, not recognizing knowledge systems other than those which comply with a reality that does not exist beyond their theoretical construction and their discourse, have fostered disinterest regarding the knowledge of rural populations and their ways of life and their socio-economic organization, basically because this is not necessary to feed the towns, that is, because agriculture and rural areas do not have sufficient relevance for the country's economy. Why does this happen? In my view, because the oil phenomenon disturbs the normal economic and social development of Angola. In principle, oil solves the essential, although poorly, as we know. Why invest, then, in knowledge that has no practical and immediate usefulness? It is this, in my view, that justifies the present state of knowledge and of research on the country's reality. In a country such as Angola, it is extremely serious that there is no Faculty of Social or Human Sciences and to see that the Faculty of Land Sciences has been closed for about seven years. There is no research on such matters. One does not know, in a scientific or systematic manner, the customs and habits of the populations which are an integral part of its communal spaces, legislators do not seem concerned in combining the rules of law. Today's knowledge of the rural space and its eco-systems goes back to the 60's and 70's when, precisely, the Portuguese colonial power had reached the conclusion that it was not possible to make the economy grow without knowing the territory and its people. Hence the painful difficulties that today are faced by the policy- and decision-makers to broach the question of land and, in a more inclusive manner, other aspects connected to rural life such as the management of natural resources, and the nature and scope of local power, just to quote a few examples.

I must still put forward another prior question. Not being a lawyer by training, I do not dare to make comments of a juridical nature or in the field of law. I think that I was invited to make this introduction for two reasons: firstly, because I have devoted much of my time and my knowledge to studying and reflecting on the question of land for agricultural purposes, and that immediately limits the scope of this communication, as urban issues connected to construction and housing will not be dealt with here; secondly, because as a leader of an organization in the civic intervention field, I have become concerned with aspects connected to the participation of citizens and of civil society in the Angolan political process. Therefore, my explanation will try to have basically a practical meaning. What is the nature of the problem? How can one, from knowing the problem, influence the adoption of correct measures to solve it? Based on empirical knowledge and available information, I will try to comment on the social representations of land and on the access to it with a short historical retrospective view and to characterize the present situation. From there, I will try to provide a few contributions – more in the form of questions – on the aspects or principles to contemplate in the future Constitution. However, I wouldn't be at peace with my conscience if I did not associate a fear to this prior question. Even though I recognize the importance and the need for a constitutional revision, I believe that the great political, social and

economic instability experienced in the country does not allow a reflection serene and deep enough on such a relevant matter. I understand that a good Constitution for Angola implies a truly national development project to be negotiated among all the country's political and social forces. And I do not believe that this is possible right now.

A NECESSARY HISTORICAL SUMMARY

Our country's various social strata which participated in the struggle for independence did so for different motives. In the actual case of the peasants, they had a big objective: to recover the land that they had lost with the colonial occupation. That occupation occurred throughout the whole colonial period, but was specially decisive from the 19th century onwards (basically here in the "hinterland" region between Luanda and Malanje) and little more, but gaining its greatest expression already in the 20th century with the effective occupation of the territory from a military, administrative, economic point of view and specially with the development of the coffee crop and other export crops, of cattle-raising (mainly in the south and in the centre of the country) and there began a real great scramble for land, which led the peasants, generally, to be driven away from their best lands.

Portuguese abandonment on the eve of independence – a result partly due to the deep political and social instability – allowed peasants to recover most of the land in a process independent from legislative nationalization or confiscation measures. A land reform was not needed. Although the Constitutional Law of 1975 defined in its article 11 that "all natural resources which exist in the soil and subsoil ... are property of the State, which will determine the conditions of its exploitation and utilization", there was nothing explicit specifically on land, nor was any law approved stating the issues connected to the use and exploitation of the land for agricultural purposes and to its organization, nor was there even a reflection or legislation on the preservation of customary rights of peasant or pastoral populations and their integration into modern law. The relative – but apparent – abundance of land and the retraction of land development – a result of the war and of the economy's dysfunction– did not favour the occurrence of conflicts and, under those circumstances, the absence of land legislation did not represent a concern nor a priority in the first few years of independent Angola.

The transformation of the economic policy, attempted at the end of the 80s and legally undertaken with the 1991 reform, caused a radical change of the situation. The re-privatization of State companies set up after independence led to a scramble for land by the new urban entrepreneurs connected to the regime, mainly in the areas of greater stability, near the most important urban consumer centres and in the provinces least affected by the war. It was an uncoordinated process from which the Angolan State drew practically no profit, with the exception of the coffee sector – where plantations were "sold" by the State at nearly symbolic prices. Land alienation has been happening in a disorganized, confused and non-transparent manner, even in the cases where local authorities are involved and, apparently, the agreement of the so-called "traditional authorities" is obtained. The result of this governmental mistake is the gradual reconstitution of former properties; the restoration of an order which inexorably will collide against peasants' interests, making the practice of normal production systems difficult or preventing them, after all the systems that, despite

being technologically not much “evolved”, ensure the sustainability and the very survival of rural populations; and the emergence of various kinds of conflicts, as we will see further on.

COLONIAL LEGACY

Land legislation which existed until 1961 was extremely confusing and subject to the most varied violations. In that year, within the framework of the reforms undertaken by the colonial government after the eruption of uprisings in Northern Angola, the “Regulation of Land Occupation and Concession in Overseas Provinces” was approved, which among other aberrations, intended to cover so diverse situations as those which were found in the different colonies. With the declared aim of having African peasants’ interests and rights over the land occupied or exploited by them respected, the latter would be demarcated on the basis of an area that represented, for each case, five times the area effectively occupied, which would theoretically allow the use of the land according to its traditional exploitation systems.

In accordance with that regulation, “vacant” land – in the legislator’s conception – would be classified in three categories, according to their purpose. Land occupied by people adjacent to parish councils, that is, by African peasants, that is further, communal land, was classified as being second class, while first class land concerned villages and their outskirts, and third class land, the remainder, was considered vacant, and as such was susceptible to concession. Under these terms, peasants could occupy, use and have the benefit of second class land, together and under the common manner, although this did not confer upon them the right of individual property. Accordingly, peasants could, by law, have the benefit of first or third class land, and their property rights were transmissible and subject to official registration. Nevertheless, the materialization of such rights obeyed a series of precepts which, in practice, made their use difficult or prevented it, and success cases by Africans were very rare. Also rare were the cases where it was possible to indeed establish the boundaries of these second class lands for the people adjacent to parish councils, a fact that caused great uproar within the Portuguese administration, with denunciations from experts and institutions which realized the seriousness of the problem, and mentioned the consequences which would result from the always increasing demarcation growth. On the opposite side were those who argued that second class land could be understood as reservations for Blacks, that is, as forms of “apartheid”, and therefore, contrary to the Portuguese policy of racial and cultural integration.

Land alienation of indigenous farmers began showing worrying levels when, already in the 20th century, foreign investors, fundamentally Portuguese but not just them, decided to devote themselves to a kind of situational agriculture, responding to the incentives of the international market, based on coffee, sisal, tobacco, cotton and other crops. Land suitable to those crops, well located from the point of view of product flow, was for the most part removed from the common usufruct of populations, and ancestral possession rights and land utilization systems practiced were systematically ignored. Whenever the crop demanded abundant labour, the companies integrated in “their” land whole villages, thus preventing subsistence crops from being planted and forcing these villages to proletarianization. Later, competition caused by the disorderly increase in the number of traders led to a considerable land scramble, and all this had disastrous effects on production and on the income of

Angolan peasants. The land scramble, which became worse in the 60s in some regions of the country such as the Central Plateau and Kunene, as we saw above, was aimed at another objective: to stake out a favourable position, negotiable later, in face of the increasing growth of the land market. As an example, average areas bound to peasant families went up, in the mid 60s up to 1972, in the Central and Malanje Plateaus, from 8,9 and 4,1 hectares, to 5,6 and 2,0 hectares, respectively, which gives a very objective idea of the seriousness of the situation. In the Kunene region, at the beginning of the 70s, in face of the increase of farms and the resultant loss for the seasonal pasture changes of the “traditional” Angolan cattle raisers, there was a strong contesting movement from the latter, which even caused Portuguese authorities to be seriously worried.

The analysis of Table I –elucidating well the inadequate land structure at the time – shows that, on average, “modern” farmers only used 10% of the land that they benefited from, did not have technical, financial and management capacity for more than that, while indigenous farmers used about 30% of it, with the aggravating circumstance that the latter, due to the type of farming systems practiced, based on the existence of long fallow periods, needed a lot more reserves relative to the area annually under cultivation, reserves that represented, after all, the foundation of these systems.

TABLE I – SOME INDICATORS OF THE COLONIAL LAND STRUCTURE (1973)

Indicators	Family sector	Business sector
No. of companies	700 779	6412
Total company surface (ha)	4 369 279,4	4 369 476
Total (average) surface by company	3,9	700,2
Total (average) surface of “other land” (1)	1,8	621,2

-“other land” comprises reserves and land for long fallow periods, therefore unused

Source: MIAA

In 1973 a new land law was approved that maintained the theoretical principle of preservation of the areas occupied by the peasants (communal lands), but referred for special regulation the forms of access to private property by these peasants. This never happened, as neither did the identification and demarcation of the parish councils or communal lands, envisaged in the law, that had already occurred with second class land. It was this disastrous policy that made the conditions of life of the Central Plateau’s peasants dramatic, and that increasingly forced them to look for work outside of their production units, be it in the

coffee companies in the north, or in the fisheries of Benguela and Moçâmedes or in the Lunda mines, then in a context that had nothing to do with the forced labour of old.

SOCIAL REPRESENTATION OF LAND AND SYSTEMS OF UTILIZATION

Access to the land represents a basic organization factor of the farming activity and of the structuring of rural society and hence the importance of understanding the social representation of land. It is this social representation that, indicating a form of social and practical thought directed towards the mastery of the social, material and ideal environment, allows the comprehension, in this case, of man's relationships with the land. In Angola such representation is not uniform, but rather diversified in accordance with the land systems present in the different ecological regions, and in each case it was transformed according to the influence of the total society and the evolution caused by the internal dynamics of the communities themselves. The occupation of the territory by the colonial administration, the presence of traders, the increase of the alien settlement and subsequent land demarcations, the increase of demographic pressure, the loss of authority of "traditional" leaders, were some of the mechanisms responsible for the evolution of the social representation of land and of the forms of its utilization and right of property at the community level. I will try to consider next the consequences of such an evolution, trying to deconstruct the idea that communal property of land prevails in Angola when one speaks of common law.

On the eve of independence, the situation could be characterized by the coexistence of several land utilization or property systems. Let us imagine the Angolan territory divided sensibly in half by a meridian. On the east of such a meridian were at that time the communal land utilization systems, corresponding to almost subsistence agricultural economy systems. This eastern half of the territory was inhabited by only about 10% of the population, and the presence of European farmers and traders was quite rare, or at least a lot less dense than in the western half. Land was considered a sort of divinity and did not belong exclusively to the living, but also to the ancestors and to future generations; community leaders were responsible for its administration, and they bestowed on the families the power of utilization and usufruct. This happened in "bushmen" communities and generally in the groups referred to as pre-Bantu, and still in the Lunda, eastern Malanje and Bié and Kuando Kubango communities. In the southwestern pastoral and agricultural-pastoral regions, pasture space determined the property, which was always communal; the areas of seasonal pasture changes were preserved with the aim of ensuring pastures and drinking points. However, there was always an individual property, the well known "*ehumbo*", perfectly demarcated with private agricultural cultivation and pastures belonging to the extended family.

In the western part of the country (excepting the referred southwestern area), more densely populated, the situation was quite different and a lot more diversified. In areas corresponding to communities where the agricultural economy already took on a certain commercial prevalence, mainly with production based on permanent crops (coffee, palm tree groves), the forms of land property and usufruct, although marked by the pattern described before, showed changes regarding the plots with plantations; then existed a permanent bond to the nuclear family or one of its members, as a socially accepted legal name. It was this

permanent bond that conferred on the land a quality of private property in relation to those plots; the remaining plots continued to have the other systems already mentioned. This occurred mainly in the Uíje, Kwanza Norte and Luanda (today Bengo) Provinces and also in some areas of Kwanza Sul.

In yet more changed systems, corresponding to areas of greater demographic pressure, property ceased to be communal and became familial or individual; any plot could be object of loan, exchange, legacy and even sale, including (long or short) fallow periods and reserves, which were divided having a bond to the families. In lowlands, because of their fertility level and the inclusion of work translated into improvements to irrigation and draining ditches, this prevalence of individual property and usufruct systems was more marked. It was the typical case of the Central Plateau – the most curious region from the point of view of the utilization of farming techniques– and their transition areas towards the west (Benguela) and towards the north (Kwanza Sul) and also of the peripheral belts of the main urban centres. In Malanje there was a transition situation between the two previous systems (Plateau and plantation areas).

One could say, in synthesis, that at the end of the colonial period communal systems continued to predominate in the eastern half of the country and in the south, where human presence was rarer, while in the remaining regions one sees a tendency towards private property, more marked when demographic pressure was greater and where the land had experienced improvements of various types (plantations, irrigation systems, etc).

These systems, mainly the more “evolved” ones, were changed to a greater or lesser extent with the destabilization caused by the wars, with big population movements; it is difficult to define the outline of such changes. On the periphery of towns demand for land and its intensive utilization grew; there was a marked tendency towards private property, although in most cases, the occupations are not legalized and there are many juxtapositions, a fact which does not prevent transactions, leases and the gradual appearance of a land market. In some rural areas where people felt more secure, the concentration of displaced people caused important land conflicts, sometimes due to its scarcity, at other times to the inefficient management of space, especially when the interests of resident shepherds collide with those of displaced farmers, as has occurred and still occurs in Huíla and other pastoral and agricultural pastoral regions. In the Central Plateau there is an increase, already expressed before independence, towards the permanent bond system, independently of the type of cultivation or its position along the catenary line; in areas of greater demographic pressure, the trend towards private ownership of land, which is sold, leased or inherited, is confirmed; one already notes a certain concentration of land in the hands of prominent people and, consequently, the beginning of a more marked social differentiation.

All this allows us to conclude that the idea that in Angola communal ownership of land predominates is false. On the contrary, at the community level, the bond, as a socially accepted legal norm, indicates that in fact there are private properties, just as there is already a land market, although at an embryonic stage. However, it happens that, due to the fact that such properties are not registered nor are they recorded into a land register, as also happens to actual communal lands, the law does not recognize such a situation. This is a big problem that needs to be faced and that needs to influence any legislative act. In short, one can say

that there are three situations: unregistered and undocumented communal property, unregistered and undocumented “informal” private property, but based on the concept of bond which is not recognized from the point of view of modern law, and registered and documented private property, with specific characteristics, as we will see further on.

NEW LEGISLATION, OLD PRACTICES, NEW CONFLICTS

The passage to the 2nd Republic, with the adoption of a multiparty political system, forced a thorough revision of the legislation in Angola. The most important laws arose from understandings among the main political forces. The same did not happen with Law 21-c/92, on the concession of rights to land utilization and exploitation, which was approved the margin of the debate required by its importance, without any political force being opposed to this. This fact shows, then, the little importance given by opposition parties to land problems, which affect such an important section of the Angolan population, for whom the question of the right to the land must be seen in the right context in which agriculture represents their way of life and, consequently, the law must be understood as the crucial point of their civic rights.

The law reveals some ambiguities and imprecisions that call into question its application and hurt the rights of citizens, especially of those who find it or will find it more difficult to assert their rights. It is not a real land law, because it does not define the land rights of the different users in their relationships with one another, particularly in their competition for the usufruct of resources, nor does it cover every sector of activity, because it makes no reference to the areas of public interest and to urban areas, nor does it expressly recognize the common law rights of peasants and small farmers. Besides, interaction mechanisms between the law and other legislation linked to the environment, to the territory's administration, to local administration, for instance, are not explained. There are a lot of jurisdiction juxtapositions and regulations are inapplicable. Besides other inferences, this causes great insecurity among producers and potential investors, undermining the environment needed for the rehabilitation of the Angolan agriculture. And, even more serious, the law is generally not known, especially by the peasants. It is, at the end of the day, just a law pertaining to land licensing, which was intended to answer certain very real concerns arising from the new arrangements of the Angolan economy.

Despite its gaps and ambiguities, it has some positive aspects. It is a statement of principle in the sense that the rights of communities will be protected, and recognizes different forms of access to the land, including the acquired rights of former owners whose land may not have been nationalized, and the new concessions authorized by the State. The right of utilization and exploitation may be bequeathed among the living and by inheritance, which to a certain extent, may stimulate investment and allow the emergence of a land market in the future.

Presently, land management occurs within an outdated, disorganized and confused legal framework. To the State's weak capability is added the lack of human and material resources, function dispersion and task juxtaposition. Insecurity regarding land ownership leads to negligence in the use and conservation of natural resources. There is not always a coherence between the legal aspect and reality. Within this framework, the practical

implementation of the legislation has led to violations of every kind. The Angolan State has conceived the privatization of agricultural companies which had been nationalized at the same time as a national entrepreneurship in the agricultural sector emerged. Technically badly prepared and lacking financial resources, such entrepreneurship only holds the land that it has been granted by the State as a means of attracting possible investors whom they would be associated to. As there is no recent and up-to-date land register, the use of the 1975 register has led to the cession of former colonial properties, without taking into account everything that occurred in the meantime (nationalizations, re-privatizations and de facto occupations), nor the financial and management capacity of the new entrepreneurs. The boundaries of the established areas are not respected nor are punished those who, without an acceptable justification, keep uncultivated land, as the law prescribes. Data from the Ministry of Agriculture indicate that over two million hectares have already been granted all over the country, which represents almost 50% of the land of the business sector in colonial times.

Therefore, one surmises that, in the long run, there will be a restoration of an imperfect production structure, based on two land types – the familial or “traditional” one and the entrepreneurial or “modern” one – according to quite different cultural, sociological and economic patterns from the point of view of objectives, from the kind of relation between production units and the human groupings linked to it, from their position in the market, from their attitude before economic calculations, from the production costs and energy flows structure. It is a land structure that hurts the principles of the country’s national unity and harmonious development. Just as it happened in colonial times, the restored “modern” sector will be characterized by an excess of unused land, with areas destined to reserves or to future speculation, while the familial sector will quickly advance towards the small plot of land, without possibility of expansion and without reserves or land for fallow periods, that in their situation are so necessary to avoid the degradation of soil fertility, which will put at risk the sustainability and even the survival of the peasants, who at the moment do not have other forms of employment or subsistence. This is just the more worrying for the country’s economy in the future when one knows that, just as happened with the common Portuguese settler, the “new” Angolan farmer lacks business and financial capability and is technically not developed, while the peasant, especially in the plateau regions of the centre, reveals abilities and attitudes that allow him to embrace forms of agriculture technically more developed from the technological point of view.

Generally there is the perception that there is sufficient land in Angola and that it does not represent a probable source of conflicts. This is false. Available land for agriculture must be relative according to socio-economic factors and must take into account soil quality, water resources, access to markets, installation or proximity of infra-structures, local production systems. In the actual case of Angola one has to add the effects of the war, with the massive displacement of populations, the overburden on the periphery of urban centres and the need to resettle former soldiers.

SOME CONFLICT CASES

All the changes registered in Angola show a new reality. Up until little more than ten years ago, known conflicts were rare. Today the situation is quite different. I gave before an example of conflicts between displaced people in general and between peasants and shepherds in particular. Between peasants and the private sector there is also news of several conflicts, and we believe that this kind of conflict will prevail in the near future; we already have worrying signs from Kwanza Sul, Huambo, Huíla, Kunene and even in the periphery of Luanda. But they may be other types of conflicts: between peasants within the same community, between private entrepreneurs, between communities and private people, on the one hand, and the State and the public interest, on the other, and further, a fact which will have other connotations, between entrepreneurs according to the political family they belong to. I do not see in present State institutions, the technical (agronomic anthropology, legal) capacity nor the political sense to arbitrate or manage these types of conflicts. I will try to briefly refer some cases that I came to know about and which seem to me to be important for us to have an idea of the size of the problem.

1. the case of the coffee plantations

The collapse of the coffee State companies led to their being re-privatized within the framework of economic reform. Big companies were registered and entered into a land register, but not all were nationalized, which is why there are some ambiguous cases. Privatizations concern only plantations, and the land is kept as State property. Due to the insecure situation in most of the coffee-growing areas, plantations have generally been abandoned or are occupied by workers, displaced people or residents.

There are complaints:

- from the descendants of the ancestral owners of the land (not always known or revealed);
- from former workers (normally from other regions) who stayed in those places following the privatizations and ensured a certain security and benefited from the land and plantations;
- from displaced people who occupied the land and plantations freely or “officially”;
- from former owners (Portuguese, German, Angolan).

ii. Certain areas of the Central Plateau

In the Huambo province, the Provincial Agricultural Delegation expressed in 1997 its desire to grant new entrepreneurs all the lands that were demarcated in 1975, at the time of independence, having granted until the beginning of that year about 59 thousand hectares to 785 farmers. The analysis of Table II, referring to only three selected municipalities in that

province, gives an idea of the values that the concentration of land represents. Of the hectares granted, 46% are in the possession of just 11 owners.

TABLE – II Huambo Province: Distribution by recent concessions in 3 selected municipalities, 1995-97

	1000HA		500-1000HA		100-500 HA		20-100HA		10-20HÁÁ		10HÁÁ		TOTAL	
Município	%		%		%		%		%		%		Total	
	Área		Área		Área		Área		Área		Área		Área	
	Conc		Conc		Conc		Conc		Conc		Conc		(HA)	
Huambo	6	37%	8	21%	35	34%	32	6%	19	1%	120	<1%	120	
	2	59%	1	9%	9	17%	29	15%	3	<1%	47	<1%	47	24672
Kaala	3	65%	2	19%	3	14%	4	2%	0		12		12	10226
Ekunha														6559
Totals	11	46%	11	38%	47	15%	65	8%	22	<1%	18	<1%	179	41457

SOURCE: HUAMBO PROVINCIAL AGRICULTURAL DELEGATION, QUOTED BY FAO

iii. The Gambos/ Tchimbolelo Valley case

Just as in other regions, the rush to the former demarcations by the new entrepreneurs was remarkable, on the basis of the old land register. Pastoral populations reacted negatively to this movement because they believe that the installation of “farmers” makes the access to certain water points and pastures and areas of seasonal pasture changes generally difficult. A systematic survey by the Huíla Province Government revealed that many of these “farmers” held much more extensive areas than the ones mentioned above and which they effectively needed and which would be more in accordance with their technical, financial and management capacities. The resultant reorganization allowed the communities to “recover” more than 5 thousand hectares for their collective use. It is a case which proves that is possible to settle land conflicts in a negotiated manner. Meanwhile, also in Gambos, there are situations where there is a more pronounced radicalism, either from the entrepreneurs, or from pastoral populations.

iv. the Dombe Grande case

The conflicts in Dombe Grande show another characteristic. As we know, problems started there when a big sugar manufacturer was installed there, I believe at the end of last century. Along the lines of land usurpation to which I made reference before, the presence of mundombe shepherds, who used those spaces for cattle raising in accordance with their traditional systems, was not taken into account. The mundombe shepherds were then removed from the riverside territory next to the Coporolo river and pushed towards other, much drier land next to the mountains. At the beginning of the 90s, with the arrival of the first displaced people from the interior of the Benguela province, the Government granted

part of the 4th of February Sugar Mill land – which had been nationalized after 1975 - just as it had already done to private farmers due to the suspension of the sugar cane cultivation.

Meanwhile, the land available to the displaced people is plainly insufficient, not only because they are expanding their crops – a result of the development of their social, psychological and economic situation – but also because of the increase of new displaced people. On the other hand, there is a movement of certain private farmers to remove the displaced people, allegedly because they do not have motor pumps. We are before a case that must deserve the Government's and local authorities' careful attention.

v. The Kenguela Norte case

We are dealing with an experiment using the methodology of negotiated resolution of land conflicts (NRLC), through a FAO and Ministry of Agriculture and Rural Development project, in an area peripheral to Luanda. Kenguela Norte is located in a property which, until 1975, belonged to the company Gomes e Irmão. Following its abandonment, the farm was confiscated, but as happened with many others, it was unsuccessful. In the meantime, a few workers and their families remained there. Because it was a dry region, with difficult access to water, the population was very small.

The war led to the movement of many people from the interior looking for safety and conditions to farm. At the same time, individuals from the private sector were settling with the aim of raising cattle. While there was enough land, there were no great conflicts. However, in time, things changed.

Although nationalized, the ownership of the land was not effectively assumed by the State. Consequently, the new entrepreneurs occupied it without resorting to the land register, at the same time that the residents consider themselves to be the legitimate owners for historical reasons. Local authorities, in their turn, were granting, either to the new entrepreneurs (from Luanda) or to displaced people, parts of the requested land, independently of the register and other qualified departments. Nobody has the right of concession nor truly knows the boundaries of his plots, except a few entrepreneurs who got them without prior consultation to “traditional” authorities. Juxtapositions are evident and are the reason for the conflict, which is further sustained because we have different land exploitation systems which generate conflicts: while peasants are cassava farmers and raise small cattle species, entrepreneurs raise oxen and, in a smaller scale, goats, species that invade the land of the peasants.

In this case, the Ministry of Agriculture and Rural Development (MINADER), with FAO's support, decided to face the conflict and organize an appropriate methodology, based on the:

- Definition of the need for cohabitation and safety relative to land rights, with demarcation of the communities' plots;
- Definition of compensations: communities surrender land in exchange for assistance in the development of their communities;

a pilot phase must be implemented which could afterwards be expanded to other areas of the country.

CONCLUSION

The question of land for agricultural purposes cannot be looked at independently from the land question itself. The Angolan Government has not paid the necessary attention to this problem, perhaps because of oil as I mentioned before, which led it to abandon rural populations to their fate, instead of stimulating them to produce.

This attitude, linked to a dysfunctional economy and to war, has caused distortions of every kind to Angolan agriculture. Peasants, displaced or deprived people do not presently have the resources to resume production at previous levels. The fragility of State institutions does not allow one to think that it can, on its own and in the short run, correspond to producers' expectations, which is why it will be necessary to negotiate, openly and creatively, an important group of basic principles. The countryside needs productive and social investments, as peasants are deprived of capital, the State is not able to promote such investments and the private sector may bring benefits of an economic and social nature. On the other hand, one must acknowledge that rural communities have historical and cultural rights that cannot be alienated, and that must be recognized because they are at present the people mainly responsible for the greater part of agricultural and cattle raising production. Nevertheless, if cohabitation between peasants and the private sector is possible and desirable, one must think about compensations. As long as there is a serious negotiation process, communities may be interested in surrendering part of their land, if they obtain in exchange technological investments for increasing productivity and production and into social infra-structures such as schools, health, roads, etc.

The importance to be given to the rights of communities relative to the land is also linked to the fact that in reality they manage more than 90% of the country's land, a fact that is not recognized by existing legislation. This aspect cannot be forgotten if we want a sustainable development for agriculture and for rural areas.

Besides this goal that implies sustainability, one also needs to bear in mind the goal of national reconciliation. Since independence, Angolan peasants have lived practically at the margin of the formal economy and of politics, and this cannot go on. However, my position does not mean a refusal to acknowledge the role that the private sector can play. Just that the private sector does not exist yet. In my opinion, it may emerge from the present peasant class, since in regions like the Central Plateau or in the coffee plantations, one already notes evident signs of the capacity of these peasants to embrace certain modern practices, in the wake of what had already happened at the time of the Portuguese. It may also emerge from the association of Angolan entrepreneurs with sensitivity towards agriculture who, though not having the appropriate technical and management skills, know how to find credible partners with possible foreign or national investors who may eliminate their inadequacies. A policy of encouragement and of financial and technical support to honest private farmers may contribute to the emergence of a dynamic sector, and true "entrepreneurs" in the

Angolan agricultural sector. My position does also not mean that I defend the maintenance of an idyllic peasant agriculture based on ancestral systems with long fallow periods. On the contrary, I defend that one needs to seriously invest in the research of new, more productive and more ecological agricultural systems, which do not need so much land. One thing is certain. A sustainable development will require, in the short run, the existence of other routes for the rural poor, which will require research into bold solutions, including the diversification of rural employment.

It is with this reality as a background that a revision of the Angolan legislation on land must be viewed, and the drafting of a new Constitution shaped.

Firstly, I believe that the Constitution, like any other law, must reflect reality and respect societal norms and the customs and habits of communities. Our reality today is quite complex and that implies, among other things, having a notion of the importance of common law in so fundamental questions as this one concerning land. And the first question arises: will politicians and legislators be technically and scientifically prepared for it (from the anthropological, agronomic, legal point of view)?

A second question presents itself. Once private ownership has been recognized as a constitutional principle, how does one face the question of land in the multiple aspects where it exists and where land is socially represented? If one recognizes private land ownership, how does one deal with all the problems of peasants who do not have access to laws and institutions and, so, will they be in a situation of great vulnerability in view of the interests of the private sector, including those of big investors? And in that case, how does one envisage access to land of people linked to vulnerable groups? If, on the contrary, land, as well as the other resources in the soil and subsoil, is considered State property, how does one preserve peasants' ancestral rights, prior to the existence of the State itself? And the rights of private people who already held possession rights in view of the pre-1975 colonial law? How does one conjugate communal property with "informal" private law which really exists in so many regions?

But the question of land, in constitutional terms, does not end here. It seems to me to be fundamental that the Constitution pay attention to the question of decentralization even at the municipality and community level. Without this, it is difficult to conceive local resource management, when it concerns the land question. If certain resources, like land, are not locally managed, at the community level, local power does not make any sense, as it will not make sense to think of local development, much connected nowadays to the mechanisms of participation and construction of democracy at the grassroots level.

This seems to me to be a fundamental question for which I have no answer. It seems that, as for all the other questions, it will be necessary to hear many different opinions, to promote extensive debates and to try to get, as far as possible, a wide consensus. And it will be very dangerous to provide answers without analysing factual reality.