

ACCESS TO LEGAL INFORMATION AND INSTITUTIONS

TALES FROM ANGOLA: SAN LAND RIGHTS IN HUILA PROVINCE



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Photographs by Carolina Cenerini

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As part of its work programme, FAO's Land Tenure and Management Unit – NRLA identified **access to land information and land institutions to secure the land rights of the poor** as a central item on its agenda. More specifically the Land Tenure and Management Unit has identified access of the rural poor to *legal information* (on how customary rights and informal transactions can become formalized and legally guaranteed) and to *institutions* (allowing to perform this formalization) as key factors for securing land rights, encouraging agricultural investment and improving the livelihoods of the rural poor.

FAO, with the financial assistance of Norway under a Programme Cooperation Agreement, has also undertaken a set of activities to further explore and better understand the concept of “legal empowerment”, and to improve the empirical knowledge base about the approaches for implementing it in rural areas.

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1. Preface

Land rights are a key building block for effective economic growth, local governance, and sustainable natural resources management. They are often central to conflicts, and to conflict management and mitigation. Poor economic growth, poor agricultural production, poor food security, poor natural resources conservation and management, and the inability to maintain good local governance systems are all potential results when people lack secure land rights.

The increasing number of conflicts over land and other natural resources show the urgency of elaborating concrete proposals on how to go about these issues. Consolidated methodology platforms have been developed recently by FAO Land Tenure Management Unit (NRLA), mainly based on field interventions carried out in several African countries.

The approach followed by FAO looks first to support (in close collaboration with NGOs/CSOs) the empowerment of rural populations, in order for them to be in a position to negotiate (and claim) their land rights. Complementary to that is the need to get governmental institutions better acquainted of the richness and flexibility of customary institutions and their ways of dealing with land and natural resources. When such a mutual understanding is reached, and better equipped weak actors are able to claim for their rights, then a platform of dialogue is proposed in order to get both security of tenure and initial scenarios for prepared for sustainable land management, through the promotion of partnership between private and public sector.

A series of initial experiences with local communities in several lusophone countries have allowed to elaborate, test and refine such a methodological package which includes a Participatory Land Delimitation approach¹ followed by a Participatory and Negotiated Territorial Development approach (PNTD)².

The following report deals with the specificity of an ethnic minority in the Huila Province of Angola. Through an intensive and demanding inclusive dialogue, it has been possible to create conditions for carrying out land delimitation cum titling exercise for a first San Community, whose official delivery has been carried out in April 2007.

The following study is about this experience and its methodological approach.

¹ Participatory Land Delimitation – Experiences and Methodologies .FAO Land Tenure Collection Number 2
http://www.fao.org/sd/dim_in1/in1_070301_en.htm

² FAO. 2005. An approach to Rural Development: Participatory and Negotiated Territorial Development (PNTD). Rome, Italy
http://www.fao.org/sd/dim_pe2/docs/pe2_050402d1_en.pdf

2. FAO Land Intervention in Angola: basic features

2.1 A brief country overview

A cease-fire agreement between the government and UNITA forces in April 2002 brought peace to Angola, a country devastated by several decades of conflict. Numbers of IDPs have returned to their places of origin. International aid, which has been extremely important till few years ago, particularly for immediate needs, reconstruction and humanitarian assistance, has now declined and starting being redirect into post-emergency interventions in order to improve social stability. For this to happen, it will ultimately depend to what extent longer-term development can raise the living standards of all citizens. In this context, securisation of tenure rights is becoming an important issue in GOA agenda³.

Angola has a land area of 486,213 square miles and a population of approximately 14 million people⁴. In 2001, roughly 70 percent of the population lived on less than \$1.80 per day, with 30 percent of those living in extreme poverty, on less than \$0.70 per day. While Angola's official language is Portuguese, the population speaks more than 60 different Bantu-group languages, including Umbundu, Kimbundu, Kikongo, Tchokwe, and Ovambo. Many rural residents, particularly in remote areas, use local languages exclusively. Literacy figures vary widely, but estimates indicate an average of 40 to 50 percent literacy rate in adults, with the lowest percentages in rural areas and among women.

Angola's population is concentrated in urban areas, the coast, and to a lesser extent, the central highlands. The majority of the rural population (65,8% in the year 2000), which most commonly occupies land informally, depends on small scale subsistence agriculture. Fertile land in areas with access to services and markets is in high demand and is the focus of increasing competition between peasant and commercial interests. The less populated areas of the country, specifically the eastern and southern regions, are home to pastoralists and hunter-gatherers in addition to sedentary farmers.

Political and governance structure

The country has evolved into a multi-party democracy organized into three branches: the executive (Office of the President, Office of the Prime Minister, Council of Ministers), the legislative (National Assembly or Parliament), and judicial. In practice, the president's power is primary.

The National Assembly has a single body of 223 members, elected through a system of proportional representation. The National Assembly has the power to make changes to constitutional law, and to approve new laws, the National Plan, and the state budget. The National Assembly's legislative authority includes the power to enact laws relating to the land tenure system, rural and urban leasing, and the participation of citizens and

³ Groppo, P. April 2004. Back to Office Report

⁴ www.landtenure.info

traditional authorities in local government, and the nationalization and expropriation of property.

The government's administrative arm, which includes the prime minister, Council of Ministers, and secretaries of state, conducts the business of the country and answers to the president and National Assembly. The government has the authority to draft regulations and implement law.

The country is divided into eight provinces, 164 municipalities, and 557 administrative units, known as communes or *comunas*. *Comunas* are further divided into *sectores*, *bairros*, and *blocos*. Each province has its own government, with governors appointed by central government and vice governors selected from a different political party than the governor. The provincial government appoints the municipal administrator, who in turn appoints *comuna* administrators. No formal state institutions exist below the *comuna* level.

Present government institutions have a weak capacity to deal with secured property rights and resources management. Decision-making continues to be centre-driven with little influence for local ideas and initiatives. Whereas there exist good specialist skills, these tend to be isolated with few opportunities to develop. Notwithstanding the real and urgent need for infrastructure rehabilitation and construction, physical planning efforts and corresponding institutional capacity outreach by far the requirements to adequately deal with the rural development challenge.

In spite of recent efforts, knowledge on the actual status of the main land administration issues (tenure and management) is still insufficient, and its availability to stakeholders, including land use planners tends to constitute a problem. Data exchange between different public institutions and departments is weak, with the information itself often considered in a realm of secrecy and suspicion. With pre-war efforts mainly directed to agricultural production in extensive state-run farms, the understanding of agrarian systems is less than desirable for a future development of the sector. However it is exactly a good understanding of the functioning of these systems that may lead to the identification of sustainable options and opportunities for change.

Post war rehabilitation in a legal and policy vacuum has encouraged spontaneous occupation of prime agricultural land, uncontrolled logging of hillsides, and unscrupulous exploitation of other natural resources. Agricultural land encroachment on former state-owned or managed land, coupled with an accelerated land grabs in better agricultural land are other common features of present scenario.

The land resource management sector is endowed with a multitude of problems, and appropriate information, tested methodologies and implementation tools to address the problems are largely absent.

Initial efforts (see section on FAO Land experience in Angola) to make inventories and assess the land resource base in Angola are beyond any doubt enlarging the knowledge base that will serve as a foundation for decision making on future land use. Provincial level decision-makers start having a (more) clear conviction now that land resources

management is to be considered as a priority for the development of the rural world. The genuine interest that is yielded at the local level, mainly through some punctual exposure, indicates that further efforts will meet strong endorsement.

Role of traditional authorities

Angola's traditional leaders, known as *sobas*, are the local governing authority in rural and many periurban areas. *Sobas* traditionally handle a multitude of local governance matters (including land administration and management) in conjunction with village elders. The distinction between the traditional governance structure and the formal structure has blurred in the last decades: in some areas, the *sobas* have steadily lost power while in others they have become employees of the government. However, particularly in remote areas, *sobas* often continue to serve as the sole governing authority for the population.

Particularly in areas where the capacity and resources of local government are limited, the relationship between the formal government officials (*comuna* and municipal administrators) and the traditional authorities is critical to a population's relationship to the formal government. Other positions bridging the gaps between traditional and formal governance systems include *coordenadores* (coordinators) who work in peri-urban areas as social mobilizers. In urban areas where there are no *sobas* or their power is diluted by the growth of urbanization, there are *bairro* coordinators and *comissoes de moradores* (resident committees).

2.2 The Angolan legal framework

Prior to the issuing of the new Land Law (Lei 09/04) access to land in Angola was regulated by Land Law 21-C/92 and its Regulations, (Decree 32/95). This legislative framework demonstrated a concern to protect the land rights of rural communities, although in a defensive and somewhat paternalistic manner (Art. 4 and 15 of Law 21-C/92). It provided rural dwellers with a space to live and produce but only for survival purposes (Chapter XI of Decree 32/95).

Recent legislation and initial policy discussions reflect major concern to address the land resources base. Actual discussions within local governments on priorities to stimulate agricultural/rural development, and on the recuperation of former irrigated schemes for promoting smallholders agriculture are other indicators of the renewed interest toward land question⁵.

In spite of the immense and complex problems of the strongly vertical structured and bureaucratic administrative system, there are assets that can be drawn upon to make a difference, both within GOA and in CSOs and national NGOs. Openings for promoting new attitudes, developing new skills and exploring the dynamics of a younger generation must be further explored. Changing the culture and reforming the practices of local governments through for instance a more accountable and participatory land tenure and

⁵ Groppo, P. December 2007. Draft Back to Office report

resource management process must be encouraged. It will create opportunities for bringing planning and development closer to the direct beneficiaries with the latter's active participation.

After significant efforts and technical assistance provided by several actors (see section below for a description of FAO), GOA passed a new Land Law⁶ in 2004, which became effective on February 2005 (Regulations were approved only in August 2007; experts consider that the absence of regulations to the land law has negatively impacted on the efficiency and speed to implement the law⁷). The law includes some statements of policy and addresses the following topics (some in a cursory fashion, others more comprehensively): fundamental principles and objectives; scope of the law and classification of land; Government of Angola land grants; terms of concessions; delineation, demarcation, and registration; rights and duties of concession holders; concessions for urban land ownership; transfers of land rights; Government of Angola land expropriation; loss of land rights/protection of existing land rights; administration and enforcement.

The law expresses the desire to adopt a territory organization policy with objectives of economic and social territorial well-being, and the preservation of areas in which traditional ways of using the land are adopted. The expressed objectives of the Land Law are: organization of territory; economically efficient and sustainable utilization of the land; protection of the environment; prioritization of the public interest; economic and social development; and respect for principles underlying the law.

Recent external evaluations have underscored that, despite these legislative efforts, fundamental gaps and weaknesses in the legal framework governing persist, diluting the country's ability to use its resources to support economic growth, alleviate poverty, and enhance the livelihoods of the country's population, including the marginalized. The following are chronic problems:

- Lacks a comprehensive written statement of its land policy. As such, the country has no clear foundation of principles to consult in drafting new legislation, coordinating existing legislation, and prioritizing actions at national, provincial, and local levels.
- The country's main land legislation expresses objectives of social and economic development, environmental protection, and sustainable utilization of land, yet the content of the law does not support these objectives to the extent possible, and in some cases itself creates barriers to the achievement of these objectives—including economic development;
- Implementation of the legal framework relies, in large measure, on institutions that have not been developed or lack capacity; and

⁶ For further information concerning fundamental principles of the Land Law, and competency for concessions see the Annex, p. 30

⁷ De Wit, P. 2007. Draft Mission Report GCP/ANG/035/EC

- The framework fails to identify and address the unique circumstances and needs of the economically and socially marginalized, thereby creating or fostering an environment that can further disadvantage and harm those groups⁸.

2.3 FAO Land Experience in Angola

FAO intervention in Angola dates back to 1999 when at the request of the Government of Angola, the FAO Land Tenure Service began a series of activities in close collaboration with the National Directorate of Rural Organization of the Ministry of Agriculture. The objectives of these activities were (i) to solve a land conflict problem in the Luanda area and (ii) to initiate a reflection on the land issue in the country.

Through a number of field activities aimed at the recognition of the historic rights of the local communities and through meetings and debates, land tenure progressively became an issue in national agenda. FAO work has been articulated around three clusters: (i) to find measures to facilitate a secured access to land; (ii) to regulate land issues (i.e. a legal framework, an information system on land and judiciary capacity building); and (iii) to develop complementary strategies for the use/management of natural resources.

Pilot activities were initially implemented in two provinces (Huíla and Bengo), and then extended to other provinces (e.g. Huambo and Benguela) with initial sessions of negotiated territory delimitations and conflict resolution, and also training in ArcView/GIS (geographic information system). The result of these activities, carried out in collaboration with a number of non-governmental organizations (NGOs), was that various communities were able to establish their territorial rights according to the existing law. It was thus demonstrated the possibility to work under the existing (weak) legal and institutional framework and promoting secured access to land and recognition of territorial rights for local communities. Public debates and meetings helped in the launching of a Land Forum in Huíla⁹.

Given the existing complex situation, FAO has focused its land tenure-related activities on two important and interconnected issues. First, a series of communities' land delimitation activities in partnership with government institutions and NGOs. This set of activities also implied disseminating information and experiences from other countries on land tenure-related matters and in providing training in negotiated and participatory land delimitation methodology as well as in GIS mapping systems and other new technologies.

Second, FAO has provided support to the government and its respective responsible institutions in starting elaborating a national land policy as well as legal and regulatory guidelines. This activity has been carried out not only by providing information and technical expertise on specific related issues, but also by enlarging the public arena in order to promote an open debate among all social actors. The high-level seminar "Land as

⁸ USAID. Nielsen R. Attorney S. Rural Development Institute. 2007. Strengthening land tenure and property right in Angola. Land Law and policy: overview of legal framework. Seattle, Washington USA

⁹ Groppo, P., Longhi L., Di Grazia, A., Kollozaj, E., and Ghigi, E., *Land tenure support in post-conflict Angola*, FAO Land Reform, Land Settlement and Cooperatives 2004/2

a Source of Socioeconomic Stability and Development", which took place on 30 October 2003, and the support to the provincial land fora in Huíla, Huambo and Bengo are concrete outcomes of these efforts.

The reason for using the negotiated and participatory land delimitation methodology was based on the need to involve several social actors with multiple interests in order to achieve a lasting solution for such a complex situation. Indeed, a large part of the challenge was to include those that had previously been excluded from decision-making processes.

2.4 FAO Participatory Land Delimitation Methodology

The task of identifying and protecting local rights in most African countries faces several major challenges:

- incorporating many different local land management systems within a single land management framework that is not then too heavy and too cumbersome to use;
- devising a system that can adequately record dynamic and shifting patterns of land use that incorporate a range of *de facto* private, individualized customary rights and areas of common use such as forests and grazing land;
- coming up with a technical approach that is cost effective yet still accurate enough to establish borders and other features on official maps.

In this context conventional western concepts of discrete, fixed land holding units such as 'the farm' are entirely inappropriate. They work for the relatively small number of private investor land holdings, but are of little use when it comes to surveying and registering the rights that are created by production systems based around shifting small plots and the integrated use of a wide range of resources through the year¹⁰.

The response of FAO to this problem has been to promote an integrated vision of the system governing the relationships between human beings and natural resources:

- The socio-political dimension: *Populações – populações rurais – povoações rurais*;
- The socio-economic dimension: *Sistemas tradicionais de utilização da terra*;
- The spatial dimension: *Terrenos ocupados e explorados com habitações e culturas*.¹¹

The socio-political dimension

¹⁰ FAO. NRLA. December 2007. Draft, Methodological guidelines for delimitation: an innovative method for securing rights acquired through customary and other forms of occupation

¹¹ De Wit, P. 2000. Tales from the Rural World – An account on land, law and rural communities in Huila – Angola, FAO mission report

The basic question that FAO team has in mind was: *What is the most favourable structure of social organisation for an efficient implementation of the Land Law, reflecting rural reality.*

To respond to this challenge, the following dimensions have to be taken into account:

- Functioning and responsibilities (with always a particular interest for land management);
- Horizontal (inter-persons relations, family ties, etc..) and vertical (hierarchies) relations;
- Representation (leadership);
- Corresponding territories of jurisdiction.

The socio-economic dimension: “traditional” land use system

The present dominant traditional land use system implemented by San populations in Huila province can be described as being a “*sedentary and mercantile agro-pastoral system*”.

This system is agro-pastoral because most of the community members are in one or the other way involved in economic activities combining crop production with cattle raising. Livestock is also an important asset in the crop production process - animal traction. It is sedentary because, while there exist a dynamic system of herd movement within the community territory, these dynamics rarely go beyond that territory. It can thus not be compared with the trans-humance systems, being practised more frequently in the south of the province. It is mercantile because it is based on economic principles of market integration.

The spatial dimension

A comprehension on “*lands that are occupied and explored* (the socio-economic dimension) *according to customs and cultures*” (the socio-political and cultural dimension) must be made in a context as described above: rural populations and agrarian systems.

Hence, the spatial dimension of these lands can be approximated by “*territories that allow rural households to implement the socio-economic strategies that are at the basis of the so-called traditional land use systems*”.

It is crucial to observe that the community lands within the above-developed context correspond with the territory where the local land management institution has jurisdiction.

The delimitation of these lands is here understood as a participatory process associating social legitimacy and legal validity, and it has as its objective the reinforcement of the

land tenure security of the rural communities. This process promotes recognition and a guarantee of the rights of access, use and management of the lands of the rural communities, while providing them with individual and/or collective property titles.

Nevertheless, the process of land delimitation and land titling must be integrated into local development projects. A range of supplementary actions of support is to be implemented to accompany the efforts of land tenure security of the communities while also considering future generations. They should participate to ensure a sustainable management of the territories and protection of natural resources, to promote local cultures, to reinforce the notion of rights for vulnerable groups and also to consolidate the local institutions in charge of development projects. This would favour the participation of the local populations in decision-making, the promotion of the income - generating activities and income generation, to the creation of an environment that encouraging a dialogue between the community, the institutions and the private sector and would allow the resolution or prevention of land tenure conflicts.

For the past few years, the approach for delimitating these rural territories was the result of concerns shared with the Legal Office of FAO regarding participatory methodologies, mapping tools, and legalistic and legitimacy issues.

These considerations were brought up mainly after the enactment of new Land Laws in several countries, such as Mozambique and Guinea-Bissau, which opened new possibilities in this direction. Considering that these new land laws dealt with the question of delimitation, the proposed methodology for dealing with these issues had to include principles that would encourage community participation.

To ensure the local community's participation in the delimitation of their lands, particularly when initial discussions with San supporting NGO in Huila, FAO designed a large-scale proposal that focused on who to empower and how to do so, a question that ultimately would have opened the door to development. For this reason, it was necessary to know the capacity and value of existing natural resources and in which form these natural resources could be used and administered by the population¹².

A methodology to delimit community lands needs to address:

- Identification of the local community;
- Prove that the local community has acquired land rights through occupation according to customary norms and practices;
- Identification of the borders of these rights.

Previous fieldwork in Mozambique and Guinea Bissau had already established a solid foundation to develop such a methodology¹³. It included participatory rural diagnosis and

¹² Groppo, P. Madureira, S. Di Grazia, A. 2006. Collecting Land Titling for indigenous minorities in Africa. Case study of the San en Mupembati, Angola

¹³ De Wit, P. 1996. Uma metodologia para o estudo da gestão de terra a nível da comunidade na Guiné Bissau, Ministry of Public Works, Construction and Urbanism, Project ACP/GUB No 7

incorporated participatory mapping and the use of GPS and other formal surveying techniques. The rural diagnosis investigates mainly:

- The social organization of rural people - to identify the local communities;
- The history, traditional practices and the various systems of land and natural resource use - to verify where the local communities occupy land and use natural resources according to customary norms and practices;
- Land and natural resources use and management – to support the identification of local communities and their existing land rights and to identify the borders of these rights.

This initial methodology package was endorsed by all stakeholders involved in land law development, including the GOM, academic institutions, NGOs, cadastral services. This draft was then tested during a period of 18 months of field trials, training, and discussions followed, facilitated with FAO technical assistance¹⁴.

The outcome of this process was the Technical Annex to the Land Law Regulations¹⁵. The Annex details a process of participatory rural diagnosis as the procedure through which land rights are identified, proven and delimited.

The intensive consultation process and interaction between the public sector and civil society, the testing and validation by technical public services and NGOs, before being transferred into legally accepted documents, all have made the adopted methodology legitimate for all layers of society.

Technical basis to delimit community land rights

The technical basis to delimit community land rights relies on two basic aspects that are clearly stated in the law:

- Identification of land occupation according to customary norms and practices;
- Identification of the local community.

a. Identification of land occupation according to customary norms and practices

Identifying where a local community occupies land according to customary norms and practices is required to register a community right over these lands.

Community History

The history of a community, its foundation, dynamics and evolution over time, reveal where and how boundaries have been defined historically. It is well possible that these

¹⁴ Tanner, C. De Wit P. and Madureira S., FAO Land Reform, Land Settlement and Cooperatives, 2005/2. Land reform in Mozambique: practice and potential

¹⁵ Comissão Inter-ministerial para a Revisão da Legislação de Terras. 2003. *Manual de delimitação de terras das comunidades*. Maputo

historic boundaries have been subject to changes over time, through for instance colonial administrative reform, climatic changes, migration processes, and direct involvement of the state like nationalisation of land.

It is important to verify if a community accepts or rejects present communal land boundaries. It is possible during the process of community land delimitation to re-negotiate areas that were alienated over time, and presently are used by other stakeholders.

Community leaders and their social and political legitimacy can be identified when the history of the community is established by its members. This exercise may also help to identify other leaders or key informants who can complete and verify information that is being collected. The history of a community also helps to better understand how it is socially organised, how land management and livelihood systems function.

Practically one can say that land occupation according to customary norms and practices is confirmed when a community is able to relate the history of its legitimate land occupation over a specific area.

Land use and agrarian systems

An analysis of the agrarian systems and the ways communities use and manage land and other natural resources, give an image of the different, often complex livelihood strategies. These strategies are well adapted to local ecologic conditions as well as to the financial, economic and technologic capacities of the local people. On few occasions, local communities have the technologic know-how and financial resources to use their lands and natural resources in an intensive way.

Agrarian systems strategies are generally developed on basis of a relatively extensive use of different resources that are dispersed in space and rarely occur one adjacent to the other. Land use is dynamic in space and time, and explores opportunities that may emerge but also disappear quickly.

b. Identification of a local community

The local community is identified through an analysis of its social organization, including its members, their representatives, institutions and management mechanisms.

The “local community” is a concept firstly introduced by the Mozambique Land Law; the law confers land rights to the local community. Land can only be registered on behalf of a local community if that community is identified.

The local community has been defined as “*a grouping of families and individuals, living in the same circumscribed territorial area at the level of a locality or below, which has as its objective the safeguarding of common interests through the protection of areas of habitation, agricultural areas, whether cultivated or in fallow, forests, sites of socio-*

*cultural importance, grazing lands, water resources and areas of expansion*¹⁶.” In practical terms it coincides with families and individuals who explore and make decisions on their land according to customary rules and regulations. They all refer to the same local management institution. The local community does not necessarily correspond with an administrative or a colonial induced/manipulated traditional structure.

The analysis of social organisation is conducted in a context of land management and rural development. The main aim is to secure land rights of local people, and using these rights to promote local development, sometimes in partnership with outsider investors.

When a communal area is very big, covering numerous villages, management decisions over land may not be in touch with all community members. A wide number of households may not influence or participate in the process of communal land management or not derive direct benefits from partnerships with outsiders. In this context the delimitation of the community land does not secure the rights of all members for development purposes.

If small communal areas are delimited on the other hand, investment may be complicated when investors are required to negotiate with more stakeholders, i.e. different local communities, over access to a reasonably sized piece of land or forest.

Social Organization

The analysis of the social organisation results in the identification of community members, their leaders and representatives and the institutions that are dealing with decision making on land issues. The analysis has to be centred around:

- Horizontal relations: co-operation and co-habitation
- Vertical relations: power balances and authority

Horizontal relations

A community is a group of people that interact and maintain relations of different nature and kind: social, cultural, economic, kinship, religious, spiritual, good, bad, weak, strong.

A community may correspond with a group of people from the same residential area. It may also be that a community is more likely to be a village, with different residential areas or neighbourhoods. Different villages may constitute another type of community, like a number of people that are organised along the same kinship lines.

Different ethnical groups may be identified as a community, as well as an entire country can be denominated “community”.

¹⁶ Mozambique Land Law, Chapter One, Article 1

The key questions remain: “Which is a local community in the context of land management and the land law? At what level should communal lands be delimited and representative bodies established?”

It is important to avoid the misconception that local community structures coincide with public administration structures. The local community is a grouping of families and individuals with social, economic and cultural links, who function as a system. These links – marriages, kinship, spiritual, social security networks, commercial, trading – are essential in livelihood strategies and make that local socio-economic systems function and people survive.

These horizontal relations are those giving a first approximation on the “nature and boundaries” of a local community, including indications on its membership.

Vertical relations

Vertical relations refer to power balances and authority between community members, between its leaders and between leaders of different, neighbouring communities¹⁷.

Participatory rural appraisal (PRA) - A field work methodology

PRA is a form of qualitative research used to gain in-depth understanding of the community problems, perceptions, resources, opportunities and potentials. This is a set of participatory research techniques, which ensure the involvement of the people to analyze their own situations and make decisions to tackle their own problems. PRA employ a number of tools to get a range of information on different aspects of rural life. It is both a philosophy and series of methods for carrying out participatory & qualitative research and gives more power to the community in perceiving, analyzing, planning and making their own decisions.

The principles of the methodology are:

Participation - does not necessarily refer to the number of people that participate in the exercise, but to the level of involvement of the participants in the process.

Triangulation- is a technique used to generate and cross-check the same type of information through the consultation of different sources and different means of information collection.

Iterative - PRA is a dynamic process where different actors interact. Along the appraisal process, the “reality” takes different shapes, becoming more complete, slowly growing to a master shape.

Speed - PRA is relatively fast because it does not intend to validate information with a statistical precision.

Visual communication- strong visual communication skills and tools are required to guarantee comprehension and active participation of the community members.

¹⁷ De Wit, P. FAO. Land Tenure Service. 2003. Delimitation and registration of communal lands in Mozambique: a methodology approach

Information, analysis and results are presented in the form of drawings, models, maps, and others.

Collecting opportunistic information - Objectives and required detail of a PRA are determined by its objectives.

Interdisciplinary team- the PRA team should preferably be constituted by experts with different backgrounds and experiences.

Mapping

This methodology recognizes four types of mapping:

Participatory maps: prepared during the PRA by different interests groups of the community; men, women, youth, elders, others. The maps are freely drawn on the ground, on paper or carton or something like, without scale, indicating natural features (rivers, mountains), infrastructure (roads, railways, bridges), others. These maps also include the relative and approximate localisation of different natural resources, areas of conflict, other relevant aspects (indication of neighbours).

Cartogram: prepared during the PRA, reflecting the community's consensus on the localisation, extent and boundaries of the communal lands. It is a unique map for a community, without scale, and is the result of a negotiation process between the different interest groups within the community.

Topographic sketch map: prepared by the Technical Team and approved by the target community and neighbouring communities. It is a map drawn on a topographic base map at a scale of 1/50,000, using the cartogram as a basic reference. In fact, the cartogram is triangulated and validated with the neighbouring communities. Consequently the boundaries are geo-referenced. This map contains all the elements that make it possible to transfer the community territory in the Cadastre Atlas. It is accompanied by a descriptive memory that describes all the boundary points and lines, and enumerates the topographic coordinates.

Topographic plan: prepared by the cadastral services as part of the demarcation process. It is a map at a scale of 1/50,000 indicating the area, its boundaries with numbered and geo-referenced points, other particularities such as the total calculated area, concession number, names of neighbouring parcels, and the topographic map number. This map is accompanied by a description of the numbered and geo-referenced points, description of natural and artificial boundaries, description of rights of way crossing the parcel.

3. The Mupenbati San Community delimitation

An estimated 4 000 San live in Angola¹⁸. Even after the peace agreement signed in April 2002, the San communities in Angola face severe hunger, lack of health and educational services, domination by other ethnic groups, loss of ancestral land and the threat of landmines. The majority of San communities in Angola live on communal lands governed by state-appointed leaders of other ethnic groups. It can be said that they live in a situation of "triple" historical disadvantages such as social, demographic and economical. Their cultural still faces the consequences of invasion, dominance, occupation of their land by Bantu, since the pre-colonial era. By the Portuguese colonisation they were discriminated against, excluded from development and killed in post independence times. They were drawn into the military as highly qualified trackers, had been killed by the war, but never had a chance to participate in public, political and legislative occasions.

During the invasive war and the incursions of the army of South Africa and the presence of SWAPO guerrilla fighters in Angola, fighting for the liberation of Namibia, some of the San had joined these armies within a special unit, providing their knowledge and ability in the domain of the nature - forests, savannas and deserts.

Since many years the non-governmental sector, the civil society organizations in Angola, with the support of bilateral and multilateral humanitarian organisations work in order to alleviate poverty and fight against their exclusion.

Today the San populations in Angola survive by collaborating with the Bantu people though often working in conditions of discrimination and disrespect of their human rights – particularly women.

The San were the first to inhabit many parts of the territory that today belong to Sub-Saharan Africa, until the XII century when the first Bantu communities arrived. After that the San moved to live in the region of Namibia and Kalahari deserts and in some provinces of Angola. With a nomadic lifestyle these communities still survive by hunting, even if currently a number of communities are trying to settle and become farmers and non-transhumant cattle breeders.

Between 1998 and 2001, contact established with San communities in Huíla indicated that these communities suffered serious privations, high mortality rates and social fragmentation during the 27 years of civil war, and identified themselves as an ethnic group in need of special attention. There is a long history of not only positive relationships, but also open exploitation and discrimination against the San by Bantu groups who have more socio-economic and political power.

In January 2001 and 2002, Trocaire Angola and WIMSA¹⁹ facilitated two meetings of Angolan San leaders and OCADEC²⁰ development workers with San leaders in Southern Africa. As a result of this exchange, the AGM of WIMSA –a southern African network

¹⁸ www.landtenure.info

¹⁹ Trocaire Angola – Agência Católica Irlandesa para um Mundo Justo

WIMSA - Working Group of Indigenous Minorities in Southern Africa

²⁰ OCADEC - Christian Organisation Supporting Community Development

of San organisations- resolved to accept OCADEC as leading organisation for Angolan San development interventions and support the human rights and development needs of the Angolan San. It was also decided that conducting of a needs assessment should be the first step²¹.

As direct result and recommendations of the needs assessment report, Trocaire Angola with its donor partners funded a seven-month emergency programme from November 2003 to June 2004. The emergency programme assisted 358 San families registered by OCADEC and one hundred poverty affected Bantu families in Huíla, Kunene and Kuando Kubango provinces. The programme aimed to distribute seeds (maize, sorghum, millet, beans and peanuts, agriculture hand tools (traditional and European hoe, bush knife, file, axe, plastic bucket, spade), non-food items (soap, second hand cloths, blankets), and seed protection food.

As direct result of the first phase of the emergency programme evaluation Trocaire Angola with donor partners funded a second-phase of the emergency programme. The two main reasons for the extension of the emergency programme were that more San families were encountered and weak yields due to rain problems were harvested. The second phase of the emergency programme assisted 785 San families or 3835 people, from November 2004 until April 2005. The second programme phase has seen some good results, especially with regard to crop production, to the extent that the acute food shortages previously noted have been significantly eased. An intermediate project took place from October 2005 to February 2006. This project aimed to assess food security of the San after two emergency projects; seeking to create a database of San communities in Angola; making San communities and local government aware of San land rights; identifying the traditional lands of the San people.

In this context FAO, in partnership with others actors, such as OCADEC and the government of Huila province²² with funds from the Italian Government and the European Union, has supported Angolan San communities. In particular, the project OSRO/ANG/404/ITA, in 2005, supported the participatory delimitation of the San community of Mupenbati in the municipality of Quipongo. This process involved neighbouring communities and local land administrations. As a result of this process, an area of 1,389 ha was recognized as San customary land according to the legal framework established by Law n°9 of 2004.

The methodology followed for land delimitation process is the participatory rural appraisal. The application of the methodology is divided in three moments:

- Historical. Duration of the land occupation period;
- Social organization. Definition of the different actors' rules through the comprehension of social hierarchy;

²¹ For further information see: Pakleppa R. and Kwononoka A. 2000. Where the First Are Last – San communities Fighting for Survival in Southern Angola. Trocaire Angola, WIMSA and OCADEC

²² See box 1 - Map of Angola

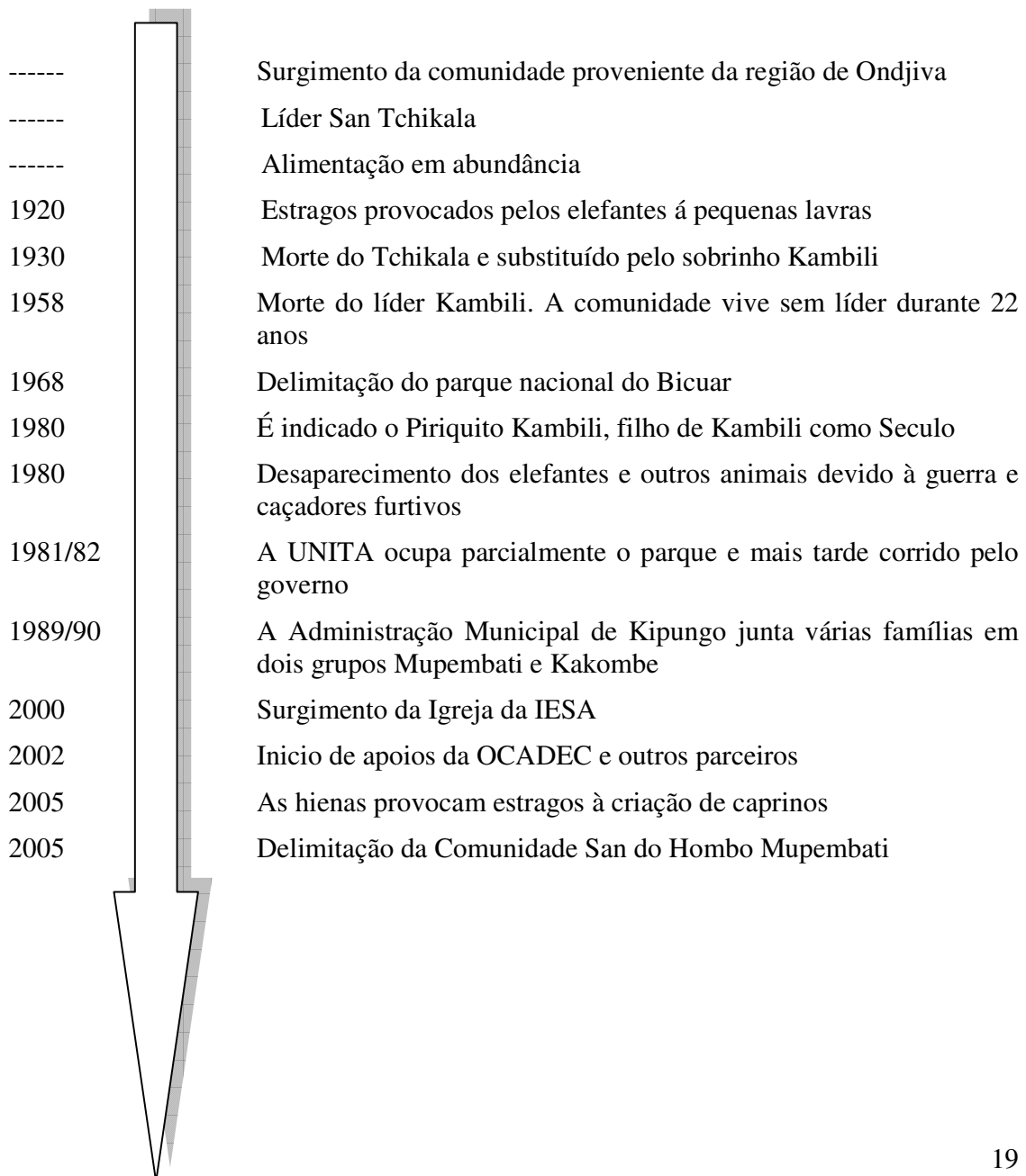
- Boundaries identification. Land delimitation through consensus with community neighbours.

Historical line

The historical line explains the most relevant events that have taken place since the early phases of the community land occupation.

The box below shows San Mupembati Community historical line.

LINHA HISTORIAL DA COMUNIDADE SAN MUPEMBATI



Historical matrix

The historical matrix presents the community history in a diversified way. It explains the dynamic land occupation and the natural resources use and management, related to different historical periods.

MATRIZ HISTORIAL DA COMUNIDADE SAN MUPENBATI				
A CTIVIDADE	ANTES DA COLONIZAÇÃO	DURANTE A COLONIZAÇÃO	PERÍODO DA GUERRA CIVIL	TEMPO ACTUAL
POPULAÇÃO
LÍDERES OU CHEFES
HOMENS
MULHERES
JOVENS
CRIANÇAS
ACESSO TERRA AC. RECURSOS NATURAIS
CAÇA
RECOLHA
LAVRAS
HORTA			
PRODUÇÃO
FURUS ÁGUA				
POÇOS			
ÁGUA DO RIO
LAÇO MATRIMONIAL
PRESTAÇÃO SERV AOS VIZINHOS	
BOVINO		
CAPRINO		
SUINO		
ZONAS DE PASTO		

Participatory mapping

The Participatory mapping is used to obtain an overview over land and different natural resources that are necessary to sustain the community and the future generations' development.

The boxes below show San Mupenbati Community Women's Participatory Map and Men's Participatory Map.

Mapa Participativo dos Homens



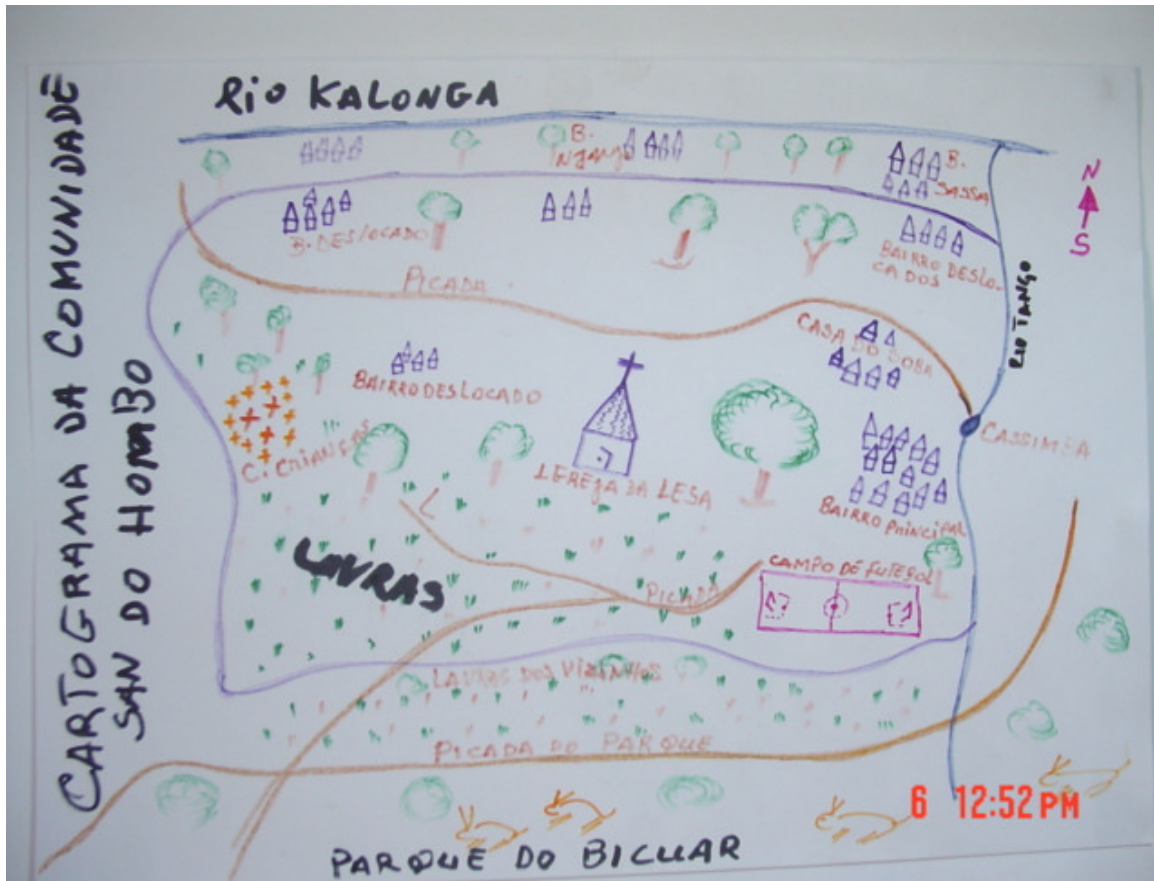
Mapa Participativo da Mulher



Cartogram

Cartogram is an approximate picture of the community land, based on the community agreement expressed following the considerations over different participatory maps.

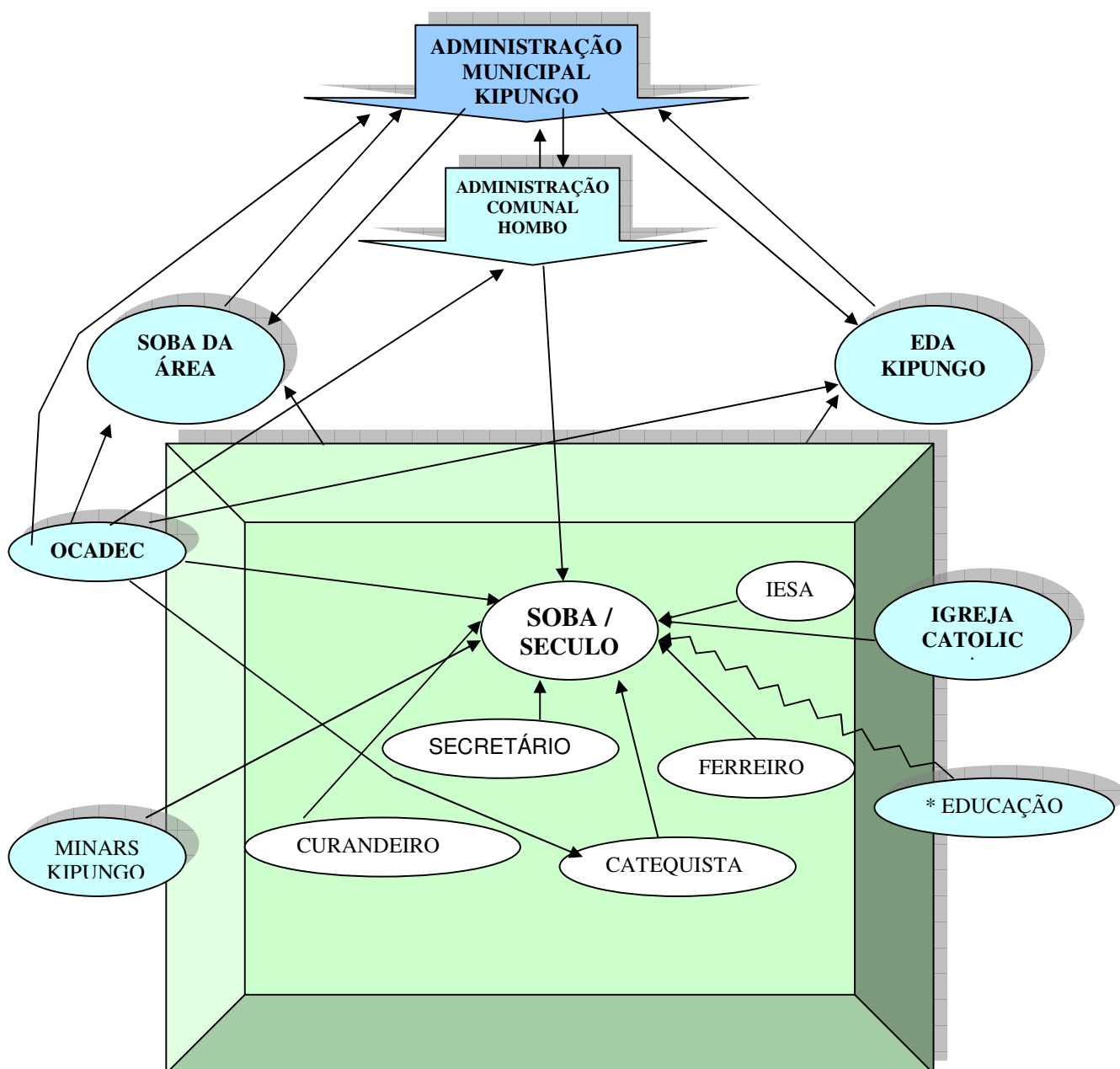
The box below shows San Mupenbati Community Cartography.



The Venn Diagram

The Venn Diagram is a social structure map that aims to show the relations between internal and external institutions and the community.

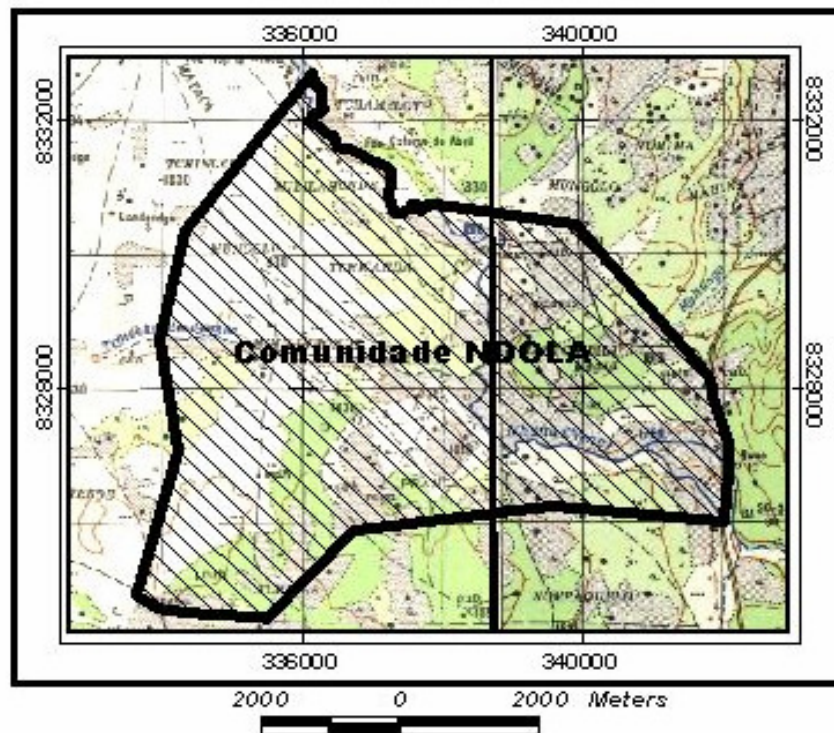
The box below shows the Venn Diagram related to San Mupenbati Community.



Topographic sketch map

It is a map drawn on a topographic base map at a scale of 1/50,000, using the cartogram as a basic reference.

The box below shows an example of topographic sketch map.



The land title

The box below shows the issued formal Land Title, for approximately 1400 Has, with no duration, which has been formally delivered at the First National Conference for Angolan San Communities.



REPÚBLICA DE ANGOLA

MINISTÉRIO DA AGRICULTURA E DO DESENVOLVIMENTO RURAL
DIRECÇÃO NACIONAL DE DESENVOLVIMENTO RURAL

Título de Concessão de Terras
(EM REGIME ILIMITADO) N.º0071/DP/DNDR/2005

De acordo com o despacho de sua Exa. Sr. Ministro da Agricultura e do Desenvolvimento Rural de=17=de=Outubr =de=2005

é concedido a título ilimitado ao Sr. ==COMUNIDADE SAN.=====

para fins de exploração == SOCIO-CULTURAL E AGRO-PECUÀRIA=====

uma área com ==1 389==Hás =Localizada na Província == HUILA=====

Município ==QUIPUNGO===== Comuna das ==HOMBO=====

Director Nacional
Fernando Simões Gomes
Eng.º Fernando Simões Gomes

Esta concessão é válida por tempo ilimitado
Luanda, 26 de Dezembro de 2005

4. First National Conference for Angolan San Communities

On the basis of this framework and following the delimitation activities carried on in the Mupenbati San territory was born the idea to reopening the debate on San. On April 27, 2007 the Angolan representatives of the San ethnic group gathered in Lubango, Angola, for the first San National Conference which included delegates from other countries within the region (Botswana, Namibia, South Africa). The main objective of the meeting was to strengthen the groups' institutional capacities and enhance the visibility of the living conditions of approximately 75.000 people who live in this area of the world. Several indigenous minorities exist in Angola, and there are approximately 5,000 San people spread throughout three Angolan provinces.

OCADEC support to the San communities in Angola with several capacity building activities and coordinated this international event, under the assistance of the Provincial governments of Kunene, Huila and Kuando Kubango. The purpose of the Conference was to inform upon the situation of the San communities in these three provinces and to promote a development approach based on the rights. The others main objectives of the Conference were: to establish a link with San from Namibia, South Africa and Botswana and to facilitate the exchange of experiences and ideas among them; to sensitize the political authorities of the State and Government and support organisations to the development and cooperation for the Angolan San communities' specific problems and for the ethnic minorities in general; to facilitate that potential Angolan San leaders are prepared to constitute an Angolan San Council, whose mission will be to promote a larger communication among the Angolan San communities and unite efforts for the resolution of the problems that affect the respective communities.

At the Conference, a small group of San presented the recommendations of the preparatory meeting. Their presentation where singing and dancing alternated with reading out the recommendations was a huge success. It was clear that the large non-San audience was very moved by this manifestation in which the San so innovatively voiced their wish to have the same rights as other Angolans, to be able to enjoy a life without abuses, to live in peace with their neighbours and to be respected.

As a result of the process of land delimitation already mentioned above, an area of 1,389 ha was recognized as San customary land according to the legal framework established by Law n°9 of 2004.

The land title was officially delivered to the community during the Conference by the Agriculture Department in Huila Province. This represents the dawn of a new day for the Angolan Bushmen. Better recognized as an ethnic minority by the State they can start developing more effective mechanisms for their representation vis-à-vis the Angolan decision-makers.

This Conference has shown that joint efforts by communities, local institutions, and international partners, can foster new thinking towards effective and impressive changes and improvement in people's livelihoods.

5. Conclusions and future follow-up activities

The experience gained by FAO and the partners, both within and outside the government, since the initial field activities undertaken by the Land program, has been transferred to the first longterm project which is actually under implementation in three major provinces (Huila, Huambo and Benguela) with the financial support of the European Commission. under the GCP/ANG/035/EC project

The project intends to continue working on the two main pillars highlighted before (continuing providing support to the efforts by provincial governmental institutions in favour of communities' land delimitation, in partnership with NGOs/CSOs; as well as providing support to the government and its respective responsible institutions in sustainable land management initiatives leading to national land policy debate and regulatory guidelines).

This initial experience, as well as others carried out in support of local communities in other provinces has shown in concrete terms that land rights can be recognized even for ethnic minorities whose "human rights" in general had proved not to be too respected so far in the country. Further initiatives are actually being prepared and will be carried out by the GCP/ANG/035/EC project in Huila province during next year, following the same approach and promoting the same (GOA-NGO-FAO) partnership.

The importance of this partnership brought together by FAO, has been highlighted by the Provincial Director of Agriculture during his speech on behalf of the Provincial Governor, when delivering the San land title. As per his words: "it is essential to continue and encourage this internal dialogue regarding land issues, whether in government or civil society, encouraging discussion forums and opening new means of communication with the hope that someday soon we will be able to write of even more encouraging results".

However, although the formal recognition of these rights is important, particularly for ethnic minorities like the San, the basic question does remain: what happens after the delimitation/titling? Delimitation and even the formal Land Title by itself do not bring about development. The whole process of delimitation and titling, does cost money (although the Law indicates that it is for free for local communities), and for large communities as well as by their NGOs/CSOs supporters, it can be really quite expensive.

It is therefore important to be clear about what delimitation does bring with it in the absence of other processes and policies. *In the most basic sense, delimitation is important because it protects rights.* The law may recognize these rights, but if they are not made visible to others, and recorded in the public land office, they remain in a very vulnerable position.

Delimitation in this context is a first line of defence. Even if nothing else happens, when an investor appears some time later, local people can refer to the maps and be able to negotiate from a position of strength.

This is the way FAO project intends to go in this immediate future: going beyond the simple repetition of field experiences in *delimitation cum titling* and engage itself (and partners) in promoting reflection and field testing on how to facilitate a smooth interface between local actors (like San and all other communities) and external investors (national and internationals). The proposed Participatory and Negotiated Territorial Development approach is therefore to be seen as the complementary platform to the Participatory Land Delimitation. Judging from the level of the discussions at the San Conference, it can be said that main stakeholders, from both the government as well as from the NGOs are aware of the importance not to leave the delimitation and titling experience without a concrete follow up, in order to get an increased trust also by the San and other communities on the seriousness of the efforts undertaken.

This land has a history of war and of abuse that is difficult to forget. Lack of confidence, mistrust between many of the relevant actors is a common feature which needs to be addressed. This experience with San community can be seen as an initial positive sign to make one hope that something is changing and that there is local “human capital” able to write a new page in history in which the desire to change and to have an open, tolerant society is stronger than its painful past.

6. Box

Map of Angola, administrative division



Source: Site Oficial da Embaixada de Angola ná Italia

7. Annex

Article 4

Fundamental principles of the Land Law

The transfer, establishment and exercise of land laws pertaining to concedable State lands are subject to the following fundamental principles: a) principle of original proprietorship of land by the State; b) principle of the transference of lands integrated into the private domain of the State; c) principle of useful and effective exploitation of the land; d) principle of ultimate authority; e) principle of respect for the land rights of rural communities; f) principle of natural resource proprietorship by the State; g) principle of the no reversibility of nationalizations and confiscations.

Article 58.

Concession process

1 The process of concession is initiated with the presentation of the requirement by the interested party and consists of the phases of provisional demarcation, of appreciation, of approval and definite demarcation.

2 General Regulation of Land Concession will settle the legal regime applicable to the process of concession.

Article 59.

Concession Title

(Translator's note: this could be something else because there is a typo in the Portuguese which makes it difficult to understand).

The relevant authority produces a concession title, according to the legally fixed model, in which are identified the nature of the conceded land, the type of land right transferred or established, the date of the transfer or establishment, the period of the concession contract, the identification of the conceding authority, and, if it is the case, the price and tax that have been paid.

Article 60.

Predial cadastral registry

1 The Government will approve the norms that guarantee the harmonization of the acts practiced by the conceding authority with those which must be practiced by the services of the cadastral and predial register.

2 Subject to enrolment in the predial register are the legal facts that determine establishment or recognition, acquisition, modification and extinguishment of land rights described in this law.

3 The facts referred to in the previous number only produce effects against others after the date of the respective register, but, even not registered, they can be invoked among the parties or their heirs.

4 The preserver must refuse the petition of the register if the presenter does not exhibit the respective concession title and, being that the case, photocopy, authenticated by notary, of the dispatch of previous authorization of the transfer pronounced by the

conceding authority.

5 That which is described in the current law, in its regulations and in the Predial Register Code is applied to the registration process.

6 The conceding authority should officiously remit certification of the contract, the corresponding documentation and the requirement of the definitive register to the conservatory of the relevant predial register, where they will be filed, and the acquirer should pre-pay the respective fees and expenses.

7 The conceding authority should file a copy of the documents relative to the transfer or establishment of the land rights over conferrable lands, in such a way as to guarantee the reform of any process of concession that is destroyed or disappears.

Section III

Competency for concessions

Article 66.

Council of Ministers

1. The following falls to the Council of Ministers: a) authorize the concession of occupation, use and fruition of the territorial waters, of the continental platform and the exclusive economic zone; b) authorize the concession of occupation, use and fruition of other land goods integrated in the public domain of the State; c) authorize the transfer or establishment of land rights over rural lands larger than ten thousand hectares, under the terms of number 3 of article 43. d) authorize the transfer of public domain lands to the State's private domain; e) authorize the transfer of rights over lands integrated in the public and private domain of the State to local authorities; f) authorize the concession of titles to urban centres.
2. The jurisdictions described in lines b, d, e, t, and g of the previous number can be delegated, according to the type of lands, in the entity charged with superintendency of the official register.
3. Authorization of transfer or establishment of land rights over rural lands larger than one thousand and equal or smaller than ten thousand hectares, is under the jurisdiction of the entity supervising the official register, through an appraisal linked to the entity responsible for the respective area.

Article 67.

Central organ for technical land management

The following falls to the Central organ for technical land management: a) organize and conserve the archive in order to permit the identification of each parcel of land, not only regarding situation, but also regarding legal facts subject to records regarding it; b) organize and execute technical jobs relating to the demarcation of lands and reserves; c) organize, execute and maintain updated geometric records; d) prepare general programming of the Country's cartography, submit respective approval to the relevant authority and maintain it updated; e) execute the directives contained in territory

organization plans, in rural areas.

Article 68.

Provincial governments

1. The following falls to Provincial Governments, relative to the lands integrated within their territory's boundaries: a) authorize the transfer or establishment of land rights over lands which are rural, agricultural, or forest, of an area equal to or smaller than one thousand hectares; b) authorize the transfer or establishment of land rights over urban lands, in accordance with the urbanistic plans and with approved land division; c) celebrate lease contracts through which precarious occupation rights are established for the State's public and private domain lands, under the terms to be defined by regulation; d) submit transfer proposals of public domain lands to the state's private domain to the Council of Ministers; e) submit proposals for concession of titles to urban centres, which fulfill legal requirements, to the Council of Ministers; t) administer the State's public and private land domain; g) supervise compliance of that which is stated in the present law and in its regulations.
2. The capacities of Municipal and communal administrators are described in regulation²³.

²³ *Lei da Terrs de Angola, Lei 09/04, de 9 de Novembro*; in USAID. Nielsen R. Attorney S. Rural Development Institute. 2007. Strengthening land tenure and property right in Angola. Land Law and policy: overview of legal framework. Seattle, Washington USA

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