

How can humanitarian mine action contribute to land conflicts or exacerbate land issues?

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Introduction

1. The decision to engage in mine action on particular land areas inevitably involves land-rights issues. Avoiding these issues can seriously compromise the return of displaced populations, and limit mine-action effectiveness and development outcomes.
2. This is particularly the case where land and territorial rights and claims issues were part of the cause of war.
3. In spite of the strong link between the presence of ERW and land and property issues, mine action organizations involved in a wide variety of clearance, education, administrative, diplomatic, treaty, advocacy and community recovery work, typically avoid land rights issues in their activities. This is due to the highly political nature of land claims after wars
4. However every time a mine-action organization works in a conflict-affected country, its work is likely to impact land rights.
5. Conflict-affected countries typically have weak or non-existent property enforcement in place to deal with land conflicts and this can lead to instability and land grabbing.
6. Most civil institutions that regulate access and use of land are weakened or destroyed by armed conflict. This means that the large numbers of land and property problems, which emerge at the end of a war, will take place in the absence of functioning land and property institutions.
7. Removing landmines changes the local context by making previously unavailable land available.
8. In Sri Lanka and South Sudan, land has been used as spoils of war; as a prize to be given to loyal soldiers and sympathizers in exchange for their support
9. Newly cleared land can provide opportunities for community wealth, but it can also prompt competition and even violence over who owns the land.
10. Although mine-action organizations try to help, there is the potential of reversing the progress made by releasing land haphazardly.
11. Post conflict property issues in or near urban areas are also important.
 - A. The destruction of urban housing stock and displacement of the population during war quickly creates squatter camps in other urban and peri-urban locations.
 - B. These camps and informal settlements attract people displaced from rural areas.
 - C. In a post war phase, attempts to regularize the tenure relations of these areas can often be destabilizing due to mass evictions and aggressive attempts to establish permanent property claims by both squatters and the original owners.

The study

1. In 2010, the Geneva International Centre for Humanitarian Demining commissioned research to examine how mine action organizations handle land-rights issues in several mine-affected countries, including Afghanistan, Angola, Bosnia and Herzegovina, Cambodia, Sri Lanka, South Sudan and Yemen.
2. A workshop in Cambodia then brought the cases together to identify and analyse patterns across the cases.
3. The case studies set out to document examples from the ERW affected countries that illustrate the nature of ERW contamination, how this related to land tenure issues, and how this impacted on livelihoods and the activities of the mine action community.
4. In order to have comparability across the case studies, the same topics were pursued in each field site.
 - A. These included: the origin, nature and impact of the ERW problem in the country;

- B. How the combination of land tenure insecurity and ERW contamination affected livelihoods of local communities;
- C. The nature of tenure security and how it works in ERW affected and unaffected communities;
- D. The primary land rights issues in the pre-conflict, conflict, and post-conflict phases;
- E. Descriptions of the customary and statutory tenure systems; how landmines and other ERW were laid or located across the landscape (i.e. as an offensive or defensive weapon, for depopulation, area denial, to instil fear etc.);
- F. And how mine action organizations address or not the issue of land rights.

The Major Problem-Generating Issues Involving Mine Action and HLP

Lack of Awareness on the part of mine action organizations

1. Mine-action organizations tend to be unaware of the exact status of contaminated land (i.e., legal status, ownership, etc.) before commencing work in an area.
2. They also generally do not know how survey and clearance will affect adjacent land and land rights once they have handed over an area to a community.
3. Some believe that because they do not encounter many land disputes during survey and clearance, land problems are therefore few or minor.
4. Many mine-action organizations hire local staff members who are not aware of communal and customary land rights and this can create problems.
5. The South Sudanese mine-action community, for example, has limited awareness of the complexities of land rights.
6. There is also little understanding of the impact of mine-action operations on land-rights issues.
 - G. For Angola, not only is the mine-action community generally unaware of any potential land problems, there is also an assumption that since the state owns all the land, and very few people have any land-related documents, there is no conflict.
 - H. Despite this perception, conflict between citizens and government demining organizations in Angola is common, since very little land is released to the community or to individuals.
 - I. The government often re-appropriates land for commercial interests, and the rights of local communities are frequently ignored. As a result, conflict (sometimes violent) can occur between the government and local communities.

Removing mines/ERW can spark resource competition and land grabbing.

1. The release of formerly contaminated land makes valuable resources available.
2. Unfortunately, mine-action and nongovernmental organizations cannot control who receives the released land since, in the majority of instances, the government and local leaders already predetermine land ownership.
3. In places where land or water resources are scarce, such as Yemen, this land release can create conflicts.
4. This can be particularly the case where elites can try to take newly released land for their own purposes, leaving intended beneficiaries marginalized.
5. Yet releasing this land, without securing sustainable and peaceful solutions between the disputing parties on its management and use, can quickly lead to renewed conflict and violence.

Neutrality versus “do no harm.”

1. In many instances, mine-action organizations have refused to play a role in the resolution of land disputes, claiming neutrality. However, this desire to remain disengaged from land politics can open the door for post-clearance conflict and can expose mine-action organizations to aggression from local parties.
2. Local actors often perceive mine-action organizations as distinctly political, especially when mines/ERW are cleared from disputed areas.
3. In response to these potential risks, mine-action organizations in Afghanistan have developed engagement criteria which stipulate that land disputes must be adequately resolved before they begin to clear contaminated land.

Prioritizing which areas to clear first can be a 'minefield.'

1. Priority-setting by mine action efforts can affect land rights and land disputes.
2. In war and immediate post-war contexts, the first priority is often road clearance in order to facilitate humanitarian and peacekeeping access.
3. Another priority is access to residential areas including urban areas, in order to support the return and resettlement of internally displaced persons and refugees.
4. Agricultural land is typically cleared after roads and residential locations.
 - A. However, because land may be contaminated in many different parts of a country, the focus on clearing residential land first may mean that agricultural land is cleared long (sometimes years) after residential areas.
 - B. As a result, in countries like Sri Lanka, few civilians who return are able to farm and instead continue to rely on humanitarian support, or encroach on un-contaminated land belonging to someone else to meet their agricultural and food-security needs.

Information sharing and transparency.

1. Inadequate communication about the status of contaminated and released land can have a significant impact on affected communities.
2. If land is released, and insufficient information is provided to local communities about the status of their land, many civilians are un-likely to return to reassert their rights. This leaves the land open for others to claim.
3. At the same time, with limited information, rumors can emerge regarding the land's status, which can mislead affected communities and encourage some to return to contaminated land.
 - A. For instance, the Sri Lanka case study found that information sharing was problematic.
 - B. The return and resettlement of IDPs in 2009 and 2010 took place without sufficient information provided to the IDPs regarding the status of their homes, land and the mine-action operations.
 - C. In the Sri Lanka context, there were cases where rumors spread quickly within IDP camps about the return/resettlement process in part because the government did not provide IDPs with any information about the return process and access to land.
 - D. As a result, some IDPs returned to find that while their residential areas had been released, their agricultural land remained contaminated, forcing many to either rely on food aid or to farm uncontaminated land belonging to someone else.
4. Mine-action organizations do not always have well-established links and coordination with the wider humanitarian and development sector.
 - A. In the past, they have tended to view mine contamination as a disarmament or humanitarian issue, but in many countries, it is also a development issue.
 - B. Most mine-action pro-grams were established in response to humanitarian emergencies or conflict, and mine-action actors have had problems changing focus from humanitarian mine action (designed to save lives and limbs) to the provision of mine-clearance services in support of re-construction and development.
5. Also, mine-action practitioners are understandably preoccupied with the technical aspects of demining, in particular safety and efficiency considerations, and gave less attention to broader issues of livelihoods and the developmental outcomes resulting from mine clearance.
 - C. The individuals working for mine-action organizations, particularly at an operational level, typically have ex-military back-grounds and may not be accustomed to sharing information and coordinating their work with humanitarian/development NGOs, which usually have a very different organizational culture.
6. Mine-action organizations often try to remain neutral (i.e., not undermine or challenge government policies) in the face of land-rights problems,
 - A. In this regard they try to ensure that handover documents are not used as proof of land ownership.
 - B. However, from a land-rights perspective, such efforts can work against attempts to ensure that released land goes to intended beneficiaries.
 - C. Mine-action activities (survey, marking, clearance and handover of released land) unintentionally create a wide variety of evidence that can help a community's claim to land.

- D. Mine-action organizations often have little control over how local communities interpret and use these documents.
- E. Providing handover documents in a highly transparent manner would obstruct potential land grabbers and facilitate land claims.

Women's land rights.

1. Female-headed households are more common after wars.
2. They can be more vulnerable to land grabbing as they are often less aware of their land rights than male-headed households, and are more likely to be less illiterate, poorer and have fewer livelihood options.
3. They may also have limited or no land-inheritance rights under customary or often statutory law in many mine-affected countries, such as in Afghanistan and South Sudan. Therefore, they may be less able to defend their land claims.