the direct effects of conflict violence, a growing number of Somalis are also affected by the secondary effects of conflict, which include breakdown of the economy, failure of state services and ultimately reduced state and community-coping mechanisms against hazards or shocks. For example, drought has now become a significant cause of displacement. Those affected suffer from lack of state services, but also limited international services such as food aid distribution, development aid and physical-security enforcement.

Bleak Outlook

In the Southcentral region of Somalia, there is no sign that conflict will decrease. Instead, with the growth of splinter opposition groups and the stalled peace process, the outlook is bleak. Somalia is at war and it appears that it will be so for the foreseeable future.

Even though the autonomous Northern region of Puntland is less volatile than Southcentral Somalia, Puntland is experiencing a rise in insecurity and political tension. At its roots are poor governance, weapons proliferation and a collapse of the intra-clan cohesion.

Also in the north, Somaliland is still vulnerable to armed violence and negative external pressures. Political disputes, clan-based politics and resource conflicts are rising. Furthermore, the continuing violence in Southcentral Somalia has led to an influx of displaced people that the region is ill-equipped to handle. To determine practical ways to engage in land-rights issues by examining specific cases in the field.

Land Rights in Conflict-affected Contexts

Land and property issues are often a central feature of civil wars. Violence, displacement, property destruction, military capture and loss of territory, pervasive food insecurity and the breakdown of land systems and population patterns. During a war, the state’s land and property-administration system can be crippled and rules can become unenforceable. Once the violence ends, displaced persons often seek to reestablish their homes and livelihoods, creating a surge of displaced and property. On the other hand, the reestablishment of ownership and the use-and-access rights to land after a war ends is often very difficult when people try to reclaim what they lost. Failure to effectively address these problems can set the scene for renewed armed confrontation.

Land rights in conflict and post-conflict environments is an increasing area of concern within humanitarian and development communities. When conflicts end, land rights may be threatened, especially for women, subsistence farmers and other marginalized populations. Secure land rights are, therefore, a critical issue for humanitarian response, sustainable peace-building and longer-term economic recovery, particularly in countries where agriculture is key to livelihoods. While mine-action activities such as priority-setting, survey and clearance bring mine-action organizations into direct contact with land rights issues, most tend to avoid these issues. This article looks at how mine-action organizations can better address land issues.

by Jon Unruh (McGill University), Gabrielle Chaizy (DRC United Nations Mine Action Centre) and Sharmala Naidoo (GICHD)

In 2010, the Geneva International Centre for Humanitarian Demining commissioned research to examine land-rights issues in several mine-affected countries, including Afghanistan, Angola, Bosnia and Herzegovina, Cambodia, Sri Lanka, South Sudan and Yemen, and how mine-action organizations handle these issues. This article describes the findings of GICHD’s research and provides practical guidance for mine-action organizations on how to “do no harm” and address the land issues they commonly encounter.

This study utilized various methodologies for collecting qualitative data, such as interviewing land-rights and mine-action experts, and studying relevant literature about land rights issues. As such, it did not collect statistical data and reports no quantitative data. The study’s purpose was instead to determine practical ways to engage in land-rights issues by examining specific cases in the field.

Land Rights Issues and Mine-action Organizations

Landmines and explosive remnants of war leave a distinct imprint on post-war landscapes. Because they deny access to key resources, mines/ERW tend to exacerbate land and property issues. Communities are forced to adapt to new scarcity
ties, creating increased pressure to control access and use of valuable, uncontaminated land.

Every time a mine-action organization works in a conflict-affected country, its work is likely to impact land rights. 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. Humanitarian and development organizations cannot use neutrality as an excuse to avoid dealing with land issues. Removing landmines changes the local context by making previously unavailable land available. Newly cleared land can provide opportunities for community wealth, but it can also prompt competition and even violence over who owns the land. Although mine-action organizations try to help, there is the potential of reversing the progress made by humanitarian and development organizations by releasing land haphazardly.

Let’s look at some of the issues involved in the land-release process that mine-action organizations encounter.

Lack of awareness. Mine-action organizations tend to be unaware of the exact status of contaminated land. For instance, the Sri Lanka government did not provide IDPs with any information about the return/resettlement of internally displaced persons and refugees. 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. 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 uncleaned land belonging to someone else. Improved information sharing with IDPs and between mine-action and humanitarian organizations would improve coordination between return, resettlement and mine-action operations and facilitate durable solutions for IDPs.

Mine-action organizations do not always have well-established links and coordination with the wider humanitar- ian and development sector for several reasons. 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 changing focus from humanitarian emergencies or conflict, and between mine-action and humanitarian or development organizations who are not aware of communal and customary land rights and this can create problems. The South Sudanese mine-action community, for example, has limited awareness of the complexities of land rights. Yet, given the contentious nature of land in South Sudan, a basic understanding of land-related challenges could enable mine-action organizations to improve the socioeconomic impact of mine action and ensure that interventions do not exacerbate already existing tensions. While some organizations collect data on land-rights issues, there are very few guidelines to recommend the correct way in dealing with land disputes.

There is also little understanding of the impact of mine-action operations on land-related issues. Not only is the Angolan 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. Despite this perception, conflict between citizens and government mining organizations in Angola is common, since very little land is released to the community or to individuals. 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. The release of formerly contaminated land makes valuable resources available. 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. In places where land or water resources are scarce, such as Yemen, this land release can create conflicts. The upper classes often try to take newly released land for their own purposes, leaving intended beneficiaries marginalized and without adequate legal protection. A donor or an NGO can direct which areas they believe a mine-action organization should focus on clearing first, i.e., communities that are the most vulnerable and have the worst contaminated land. However, when the land is released, the demining group has little power over who receives the land.

One way governments, such as Afghanistan, South Sudan and Yemen, handle disputed land is to continue to list it as inaccessible to all disputing parties following clearance. Many individuals who find this land valuable and indispensable to their livelihood will wait indefinitely for its release. Others may knowingly take risks and use the land prior to approval. Some may even use/grab land that doesn’t belong to them.

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.

Agricultural land is typically cleared after roads and residential locations. However, because land may be contaminated in different parts of a country, the focus on clearing residential land first may mean that agricultural land is cleared long after residential areas. As a result, in countries like Sri Lanka, few civilians who return are able to farm and instead rely on humanitarian support or encroach on uncontaminated land belonging to someone due to meet their agricultural and food-security needs.

Information sharing and transparency. Adequate communication about the status of contaminated land can have a significant impact on affected communities. If land is released, and insufficient information is provided to local communities about the status of their land, many civilians are unlikely to return to reassess their rights. This leaves the land open for others to claim. On the other hand, with limited information, rumors can emerge regarding the land’s status, which can mislead affected communities and encourage some to return to contaminated land. For instance, the Sri Lanka case study found that information sharing was problematic. 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. In a workshop that CICID organized, the study’s author, Bhavani Fonseka, mentioned that 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.

Priority-setting. Mine-action organizations can affect land rights and land disputes. In conflict and immediate post-conflict contexts, the first priority is road clearance. This can open the door for post-clearance management and use, which can quickly lead to renewed conflict and violence.

Neutral or “no do harm.” In many instances, mine-action organizations refuse 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. Local actors often perceive mine-action organizations as distinctly political, especially when mines/ERW are cleared from disputed areas. 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. While they do not take an active role in the resolution of the disputes or the development of new land-management systems, they try to ensure that tensions will not increase because of the release of potentially hazardous or suspected-hazardous areas. This approach reduces the potential harm that may come from land released through survey and clearance.

Prioritizing which areas to clear first can be a minefield. Priority-setting can affect land rights and land disputes. For instance, the Sri Lanka government did not provide IDPs with any information about the return process and access to land. 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. Improved information sharing with IDPs and between mine-action and humanitarian organizations would improve coordination between return, resettlement and mine-action operations and facilitate durable solutions for IDPs.
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.

The individuals working for mine-action organizations, particularly at an operational level, typically have ex-military backgrounds and may not be accustomed to sharing information and coordinating their work with humanitarian/development NGOs, which usually have a very different organizational culture. Mine-action organizations are just beginning to recognize the need to ensure their work supports wider humanitarian/development work and are trying to establish better coordination.

As mentioned previously, mine-action organizations often try to remain neutral (i.e., not undermine or challenge government policies) in the face of land-rights problems, and try to ensure that handover documents are not used as proof of land ownership. However, from a land-rights perspective, such efforts can work against attempts to ensure that released land goes to intended beneficiaries. 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. Mine-action organizations often have little control over how local communities interpret and use these documents. Providing handover documents in a highly transparent manner would obstruct potential land grabbers and facilitate land claims.

Women’s land rights. Female-headed households 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 illiterate, poorer and have fewer livelihood options.4 They may also have limited or no land-inheritance options. Women’s land rights.

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Promote balanced local recruitment (gender, ethnicity, alignment to different sides in the conflict, religion, clan, survivors, etc.) in mine-action activities in order to avoid a perception that a mine-action organization is based on the conflict, prioritization, survey and clearance of land. Such a balance can also mitigate, to a degree, the notion of a tight alignment with the government.

For additional information on landmines and land rights in conflict-affected contexts, see http://bit.ly/MICGTw.

See endnotes page 82