

LAND RIGHTS

AND MINE ACTION:

FREQUENTLY ASKED QUESTIONS

FOR MINE ACTION ORGANISATIONS



This document provides simple practical guidance on land issues for mine action organisations. It covers the following topics: why land matters for mine action; land rights and land release; what mine action organisations can do; and where to get additional information and support.



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WHY LAND MATTERS FOR MINE ACTION

1 | What are the land-related risks for mine action?

Mine action can:

- > **Re-ignite or create land conflicts.** Old grievances may exist between individuals and communities regarding boundaries or 'ownership'. Land release increases the value of cleared land and can lead to disputes.
- > **Contribute to land grabbing.** Powerful individuals may seize land from poor women and men or from the State.
- > **Contribute to the use of land for illicit purposes.** Land release may contribute to the illegal extraction of natural resources (eg. illegal logging) or the cultivation of illicit crops (eg. poppy).
- > **Put mine action staff or communities at risk.** Operators may find themselves in the middle of a dispute. Re-mining of disputed land can result in civilian or operator staff injuries.
- > **Delay operations while 'ownership' of hazardous land is clarified.** Operators should not expect all land to be centrally registered. Globally, only some 20-30% of land is registered; the figure is even lower for developing countries.
- > **Maintain or exacerbate gender inequalities in access to land.** In many societies, women's access to land is exercised through male relations. Male relatives may try to 'reclaim' family land.
- > **Undermine food security.** Some clearance methods or the timing of their use (i.e. seasons) can result in a loss of topsoil and reduced food security.
- > **Lead to intentional expensive equipment damage** due to lack of community consultation or dissatisfaction with the clearance process or land-release outcomes (changes in land access, land rights, land use or land values).

2 | What does "Do No Harm" mean for Mine Action?

Humanitarian actors should ensure they do not make a situation worse through the assistance they provide. The release of land through survey and clearance is not neutral. Removing mines/ERW changes land values and can impact land rights and land use. Specifically for mine action, Do No Harm means three things:

1. Understanding your operational context – who has what rights to the land; how is land used by different groups.
2. Assessing the potential positive and negative impact of land release on that context, including for the powerful and the poor, men and women.
3. Taking practical steps to ensure that mine action contributes to positive outcomes as well as positive outputs.

LAND RIGHTS AND LAND RELEASE

3 | Where can land issues arise in mine action operations?

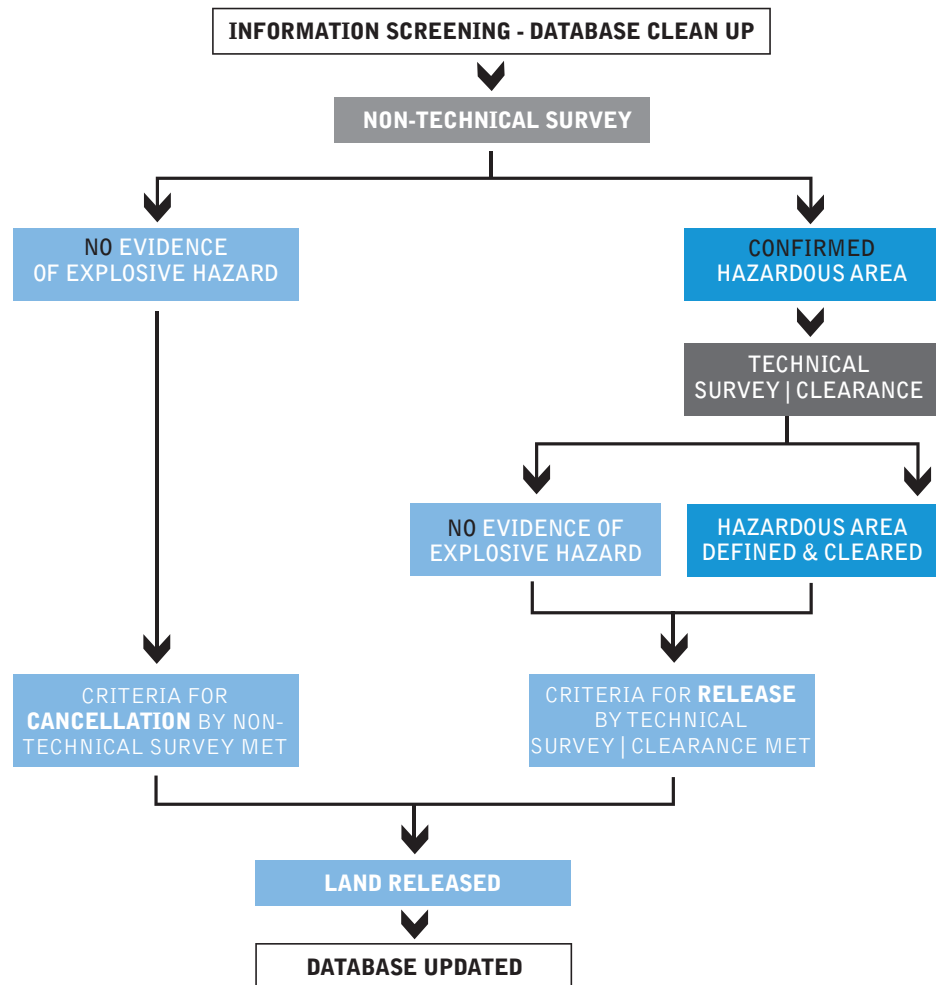
Land issues can arise throughout the mine action operations:

- > **Recruitment:** recruiting from specific ethnic, clan, religious, political or gender groups could create perceptions that mine action favours one group over another
- > **Non-technical survey:** discovers land conflicts or potential risks due to the increased value of released land
- > **Priority-setting:** if an existing or potential land conflict is identified, what happens? Is clearance postponed? When will that hazardous area be cleared in the future?
- > **Contracting:** mine action contracts often make no mention of land rights or the need for post clearance assessment to confirm what really has happened with the land
- > **Community Liaison and Mine Risk Education:** existing or potential conflicts are discovered, but what is the follow-up procedure?
- > **Clearance:** either plot boundary markers or shared walls in buildings are destroyed through mechanical processes. Topsoil can also be lost if clearance is not well-timed with respect to harvest seasons.
- > **Hand-over:** mine action increases the value of the released land and this can lead to land grabbing or conflicts. Women's land rights can often be ignored.
- > **Impact Assessment:** do the intended beneficiaries from land release actually gain rights to the land once it is released? Has land been grabbed from beneficiaries? If there is a conflict, cleared areas can be re-mined. Do the beneficiaries of released land have access to additional inputs to make the land productive (seed, tools, fertilizer, extension services, access to markets...)?

4 | What types of land issues can affect mine action?

- > Lack of documentation for land or property rights
- > Land grabbing, both Government land and private land
- > History of forced displacement
- > Secondary occupation of land left behind by refugees/IDPs
- > Family disputes over inherited land
- > Boundary disputes between communities
- > Conflicts between pastoralists and agriculturalists
- > Disputes over water, forests, irrigated land

Figure 1 | Land release process chart adapted from IMAS



Source: 'A Guide to Land Release: technical methods', GICHD 2011

WHAT CAN MINE ACTION ORGANISATIONS DO?

5 | What issues should I address in non-technical survey?

First, who has what rights to the land? Statutory, customary and informal rights often co-exist and overlap. At any time, more than one group may have legitimate use rights over the same piece of land (eg. pastoralists move through agricultural land). Second, are there any land conflicts or historical grievances between communities? Third, what was the past land use and what is expected future land use once the land is released? Finally, will the value of the released land increase the risk of land grabbing? Both women's and men's perspectives should be sought.

6 | What do I do with land information collected through mine action operations?

Survey, clearance and community liaison produces a wealth of data about communities. Some of this information may be useful to land organisations such as government land administration, GIS/cadastral agencies and planning departments, foreign investors, development banks, etc. Sharing information contributes to broader development outcomes.

7 | How can I integrate land issues into priority setting?

Involve women and men from communities in priority setting. The first priority for survey and clearance remains saving lives and reducing injuries. Consideration should also be given to how the land release process can support: economic growth, livelihoods, conservation of protected areas, the return and integration of refugees, and the peaceful resolution of disputes.

8 | What do I do if I discover a land dispute?

Mine/ERW operators should not become mediators. Clearance should stop if a dispute is discovered that threatens civilians or staff. The issue should be reported to local government and the national authority. Refer disputes to local NGOs or the UN as appropriate.

9 | How can land rights be included in the tendering process?

Statements of Works (SOWs) should clearly include land rights considerations and actions to be taken by bidders and contractors. Reporting requirements regarding land issues should also be specified. Liability issues, including third party liability, should also be included in the tendering process, and possibly in the contracting process.

10 | How can I incorporate land issues in implementation planning?

Decisions about the use of survey and clearance assets should take into consideration the expected future use of the land. Female and male community members should be involved in decisions regarding which assets are used and during what season. From a liability perspective, proper records should be kept regarding which assets were used for different areas in the same site.

11 | How can I minimize the risk of disturbing boundaries during clearance?

On agricultural land, mechanical assets can be used up to boundaries with manual asset teams or mine detection dogs to clear the boundary. If mechanical assets are used on the boundary, string can be used to mark the boundary above the ground. In residential areas, mechanical excavation may be used inside the structure, while manual assets and dogs can be used on the walls.

12 | How can I help secure land rights during handover?

Ensure that the handover ceremony is widely publicised and involves women and men. If there are old grievances or ongoing disputes, be explicit that the handover document is NOT legal evidence of land 'ownership'. Involve local land administration officers if required.

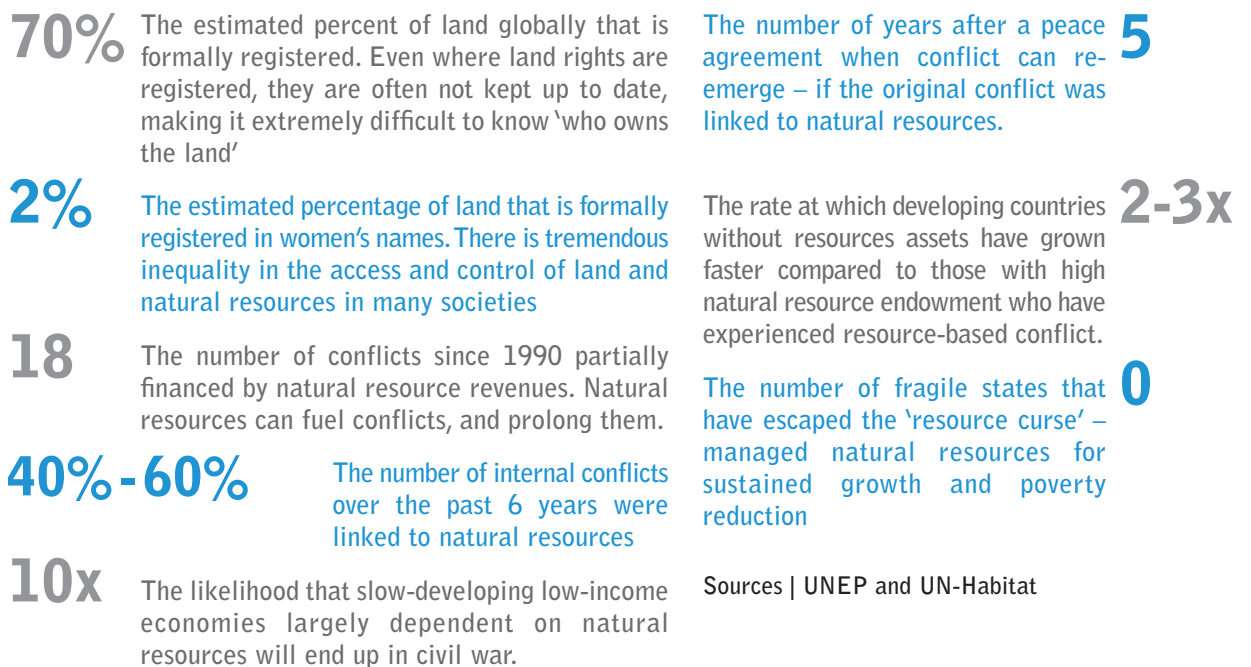
13 | What questions should I include in my impact assessment?

Impact assessment should examine how land use has changed prior to and after land release. Have land values changed? Has any land been sold or grabbed? Have any conflicts emerged? What value has the released land produced?

14 | How can I incorporate land issues into Standard Operating Procedures (SOPs) and national standards?

Mine/ERW operators and national mine action authorities should review, as appropriate, their SOPs and national standards to ensure land issues are adequately addressed.

LAND, RESOURCES AND CONFLICT: THE EVIDENCE



Where can I get additional land rights support?

- > Geneva International Centre for Humanitarian Demining | land rights webpage www.gichd.org
- > UN-Habitat: housing, land and property rights, land dispute resolution, land rights and mine action | www.unhabitat.org
- > Food and Agriculture Organisation: forestry, water, agriculture, irrigation infrastructure | www.fao.org
- > Global Land Tool Network: tools and methods | www.gltn.net
- > Internal Displacement Monitoring Centre: land and property rights training, durable solutions to internal displacement, displacement data | www.idmc.org
- > International Organisation for Migration: restitution and reparations, land conflict resolution | www.iom.int
- > Norwegian Refugee Council: land and property rights training, information and legal assistance, land dispute resolution | www.nrc.no
- > Office of the High Commissioner for Human Rights: forced evictions, right to adequate housing | www.ohchr.org
- > TerraNullis: Housing, Land and Property blog www.terra0nullius.wordpress.com
- > United Nations Development Programme: conflict prevention and recovery, high value natural resources | www.undp.org/bcpr
- > United Nations Environment Programme: natural resource management, extractive industry, environmental assessments, protected areas | www.unep.org
- > UN High Commissioner for Human Rights: refugee displacement and return, land and property rights of refugees | www.unhcr.org

MINE ACTION & LAND RIGHTS COLLABORATION

In 2010, GICHD commissioned research on the links between land rights and mine action in seven countries (Afghanistan, Angola, Bosnia, Cambodia, Sudan, Sri Lanka, Yemen). GICHD, IOM, UN-Habitat and the Housing, Land and Property (HLP) working group are collaborating to provide practical guidance to mine action organizations on how to deal with land issues.



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