



LAND RIGHTS AND MINE ACTION IN MYANMAR

DO NO HARM: PROPOSALS FOR A SET OF EIGHT CORE PRINCIPLES AND A 14-STEP SEQUENCING PROCESS FOR LAND RIGHTS-SENSITIVE MINE SURVEY AND CLEARANCE IN MYANMAR

February 2014



DISPLACEMENT SOLUTIONS

COVER:
A RUDIMENTARY LAND
MINE MARKER COMMONLY
USED IN RURAL AREAS OF
MYANMAR.

Image: Norwegian People's Aid (NPA)
Location: Eastern Bago

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PREPARED UPON THE REQUEST AND WITH THE SUPPORT
OF NORWEGIAN PEOPLE'S AID, YANGON, MYANMAR

CONTENTS

EXECUTIVE SUMMARY	01
PROPOSED CORE PRINCIPLES ON LAND SENSITIVE MINE ACTION	02
Proposed Sequence of Steps for Land Sensitive Mine Action	05
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I. INTRODUCTION	06
II. LAND RIGHTS AND LANDMINE SURVEY AND CLEARANCE – THE CONTEXT	07
Box 1: Landmines in Myanmar - The scope and scale of contamination	08
Box 2: Lessons Learned - Cambodia	09
Box 3: Lessons Learned - Yemen	10
Box 4: Lessons Learned - Sri Lanka	11
Box 5: Landmines and Land Rights – General Lessons	12
III. THE HLP RIGHTS OF COMMUNITIES TO LAND PREVIOUSLY CONTAMINATED BY LANDMINES	14
III.A. HLP Rights Under Myanmar Law	16
Box 6: Access Denied - A recent report by the Transnational Institute and the Burma Centrum Nederland	18
III.B. HLP Rights Under Customary, Traditional and NSAG Law	19
III.C. HLP Rights Under International Human Rights Law	19
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IV. STAKEHOLDER VIEWS ON THE LAND RIGHTS-LANDMINES NEXUS	21
IV.A. Civil Society Views	22
IV.B. Government Views	25
IV.C. Non-State Armed Groups' Views	27
IV.D. Mine Action Organisations' Views	33
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V. EIGHT CORE PRINCIPLES FOR LAND RIGHTS-SENSITIVE MINE ACTION	35
VI. A SEQUENCE OF 14 STEPS FOR LAND RIGHTS-SENSITIVE MINE ACTION	38
VII. CONCLUSIONS	47
ANNEXURE	49
A. List of Consultations	49
B. Selected References	57

DISCLAIMER: This report is a product of an extensive consultation process carried out by DS, and includes a wide range of different points of view from a variety of stakeholders, including representatives from civil society, landmine-affected communities, the Myanmar government and International NGOs working on mine action. Not all the views are necessarily in line with NPA's position.

EXECUTIVE SUMMARY

1. Vast areas of land in Myanmar are currently contaminated by landmines and other explosive remnants of war (ERW) as a legacy of decades of armed conflict between the national government and a wide range of ethnic armed groups. However, the political climate in Myanmar has been rapidly changing, peace talks have been progressing, and plans are being developed to commence demining of contaminated lands. Programme and policy formulation by mine action related organisations in Myanmar is currently underway, and landmine and ERW survey and clearance operations are expected to commence in the near future. In addition, the Myanmar Mine Action Center (MMAC) is about to be established under the Myanmar Peace Centre (MPC) and, once it has been activated, will be expected to play the key governmental role in mine action efforts.
2. Mine action is a vital component of broader strategies to secure sustainable peace in countries emerging from conflict and instability. At the same time, mine action is inextricably linked to broader land rights questions because demining frees land that was previously unusable and/or difficult and dangerous to access. If managed poorly or if carried out purely on a technical basis without taking land rights questions into account, de-mining can re-ignite or create new land conflicts, facilitate land grabbing for resource extraction or other large-scale business activities, lead to forced displacement, serve to reinforce or exacerbate economic inequalities, and trigger a range of other undesirable outcomes. It is thus vital that demining efforts in Myanmar be subject to policies and agreements that can prevent such outcomes. It is essential, in other words, that the landmine survey and clearance efforts *Do No Harm*.
3. Towards this end, with support from Norwegian People's Action (NPA), Displacement Solutions (DS) carried out an extensive stakeholder consultation process within Myanmar and in Thailand in mid-2013 to gauge sentiments about the land rights-landmines nexus and to elicit the widest possible cross-section of views on principles and processes that should be applied to effectuate a *Do No Harm* approach.¹
4. Based on these inputs, as well as examination of the experiences of other countries and extensive additional research, this report sets forth two key sets of proposals for generating land rights-sensitive mine action in Myanmar. The first set of proposals identifies eight overarching humanitarian, democratic and community-sensitive principles that should inform mine action as it impacts upon land rights. The second set of proposals outlines a 14 step sequence, set forth step by step, that are intended to provide guidance for operationalizing the overarching principles as mine action proceeds. These state respectively:

¹ The report was prepared by Scott Leckie, Geoff Myint and Andrew Scherer. Any comments may be directed to: info@displacementsolutions.org. Special thanks to the NPA staff in Yangon for their assistance and advice on this report, as well as to Sharmala Naidoo of the Geneva International Centre on Humanitarian Demining for her extensive comments.

PROPOSED CORE PRINCIPLES ON LAND SENSITIVE MINE ACTION

PRINCIPLE 1: Land rights must be incorporated into mine action and reflected in peace agreements.

PRINCIPLE 2: Land rights must be clarified prior to commencement of demining operations.

PRINCIPLE 3: Community participation in mine action is critical.

PRINCIPLE 4: Priorities for demining should be based on community needs and human rights principles.

PRINCIPLE 5: Land claims must be determined in a fair and equitable manner.

PRINCIPLE 6: All forms of rights must be considered.

PRINCIPLE 7: Documentation of land rights must be created and maintained.

PRINCIPLE 8: There must be post-demining monitoring and assessment.

PROPOSED SEQUENCE OF STEPS FOR LAND SENSITIVE MINE ACTION

- STEP 1: *Mine action standards and collaborative infrastructure for implementation established.*
- STEP 2: *Awareness-raising with local communities on landmine survey and clearance, land rights and land law undertaken.*
- STEP 3: *Non-technical survey carried out.*
- STEP 4: *Community consulted on priority-setting and proposed land use planning in contaminated areas.*
- STEP 5: *National priorities for demining established.*
- STEP 6: *Local/regional priorities for demining established.*
- STEP 7: *Land claims submitted.*
- STEP 8: *Land claims determined.*
- STEP 9: *Technical survey / landmine and ERW clearance carried out.*
- STEP 10: *Mine action operators present documentation of landmine clearance to MMAC, and previously de-mined land certified by MMAC as safe for use.*
- STEP 11: *Cleared land is formally handed over to the local community.*
- STEP 12: *Landmine survey and clearance and land rights determinations documented, recorded and mapped.*
- STEP 13: *Post-demining monitoring and assessment carried out.*
- STEP 14: *Land rights on handed over land enforced.*

5. These proposals are drawn directly from the views, comments and suggestions of the wide range of mine action stakeholders that were consulted in both Myanmar and Thailand and to the extent possible, represent a convergence of perspectives grounded in international best practices, prevailing international legal principles and relevant normative frameworks. A precise determination of which actors should undertake which steps must be negotiated and carefully agreed by mine action organisations involved in the process on the ground. The proposals are offered in the sincere hope that mine action can be undertaken in Myanmar in a manner that fully respects and strengthens human rights and the rule of law, that is transparent and well understood by the people most affected and that supports the long-term prospects for peace and prosperity for all the people of Myanmar.²

² These proposals are intended to capture the best thinking and broadest consensus of mine action stakeholders in Myanmar and the best practices in other countries. It is hoped they will garner broad support and be of use in the ongoing development of the Myanmar Mine Action Standards.

A FIELD USED BY
IDP'S. FORESTED AREAS
IN THE DISTANCE ARE
LANDMINE CONTAMINATED

Image: NPA

Location: Eastern Bago, Myanmar



I. INTRODUCTION

6. As Myanmar continues on its path of political and economic reforms and its pursuit of ceasefire and peace agreements between the government and ethnic groups, the various peace processes underway to resolve the country's long-standing ethnic conflicts will need to address landmine survey and clearance and the determination of rights to land that is deemed safe to use as a result of demining activity. As important as demining efforts are, however, to protect people and create an environment of peace in today's Myanmar, the determination of land rights for cancelled and released land will not be a simple task. Each of the millions of acres of mined land in Myanmar is subject to a wide range of land laws and types of land rights, including the constitution and formal statutory law, informal communal and customary rights and other formal and informal arrangements put in place by armed and ceasefire groups in territories under their control.
7. The mine action process, therefore, will unfold in an extremely complex and highly sensitive legal environment with regard to land rights. In order to pursue a *Do No Harm* approach to landmine survey and clearance, involved stakeholders will have to address the question of who has legal rights to the land that is free from evidence of mines and newly available. And they will have to do so bearing in mind the inevitable conflicts over such land that will emerge. Indeed, the higher the perceived return value on currently mined land, the greater the risk of land disputes between those claiming rights over the land and those wishing to exploit the land for economic gain. In all likelihood, the risk of land disputes will grow as the demining process expands.
8. This report is based on scores of interviews and active consultations with a wide spectrum of landmine related stakeholders. The underlying assumption of the report is that mine action will be most effective and equitable if a land rights-sensitive *Do No Harm* approach to mine action is taken which fully corresponds to the housing, land and property (HLP) rights widely enshrined under international law.³ The report provides a brief overview of the types of land rights issues that can emerge and the legal framework for addressing land rights issues. It then sets forth a series of recommendations for core principles on land and demining, and a proposed sequence of steps on addressing land rights in the context of landmine survey and clearance that would embody those principles and facilitate the fair and effective resolution of land rights claims.⁴

³ See, for instance, Scott Leckie and Chris Huggins, *Conflict and Housing, Land and Property Rights: A Handbook on Issues, Frameworks and Solutions*, Cambridge University Press (2011).

⁴ There are many aspects of the political, economic and legal environment in Myanmar that will have direct impacts on mine action. These include the failings of the array of laws and policies that impact on land rights in general, the increasing land grabbing and displacement caused by the evolving policies and practices on economic development, trade and industrialization, and the disturbing extent of corruption, cronyism and bigotry. While this report takes into account these background factors, its recommendations are narrowly focused on the intersection of land rights and mine action and no attempt is made to address the broader national context.

II. LAND RIGHTS AND LANDMINE SURVEY AND CLEARANCE – THE CONTEXT

9. One of the most painful legacies of the decades-long armed conflicts in Myanmar is the vast amount of land that has been contaminated and rendered unusable because of landmines. Although the precise location and amount of mined land in Myanmar remains to be determined, it is clear that there are many different regions in the country in need of landmine survey and clearance operations and that considerable areas of land are contaminated by landmines and ERW. Ten of Myanmar's fourteen states and divisions are landmine-contaminated, including between 34 and 47 of the country's 325 townships in particular in Chin, Kachin, Kayin (Karen), Kayah (Karenni), Mon, Rakhine and Shan States, as well as in the Bago (Pegu) and Tanintharyi (Tenasserim) regions. Estimates of the amount of contaminated land are as high as 5 million acres. And, according to all accounts, the amount of land rendered unusable because of landmines vastly exceeds the acreage that is actually contaminated because the strategic location of landmines often blocks access to adjacent lands.

BOX 1: LANDMINES IN MYANMAR - THE SCOPE AND SCALE OF CONTAMINATION

Though reporting on recent accident rates has been thin, figures from 2008 put Myanmar behind only Afghanistan and Colombia in terms of landmine accident rates worldwide. Contamination rates are thought to be highest along the Thai-Myanmar border, particularly in Karin (Karen) and Kayah (Karenni) States (more than in Mon State). The border with Bangladesh is contaminated as well, and there is broad concern (no detailed data is available) that contamination in Kachin State, on Myanmar's border with China, may be severe with the reopening of conflict there in recent years. The extent of contamination in Shan State is thought to be relatively low, though as with landmine contamination in Myanmar in general, little can be stated with certainty before surveying begins in earnest. Indeed, the full extent of contamination in Myanmar is impossible to know. Of countries in the world with high levels of landmine contamination, Myanmar is unique in its almost complete lack of systematic data until the present. This is due largely to Myanmar's former government's unwillingness to acknowledge the scale of – and allow landmine action organisations to respond to – landmine contamination in the country. (Sources: Geneva Call 2011, ICBL-Myanmar 2012).

10. Land rights – or more specifically, housing, land and property (HLP) rights⁵ issues – have, in general, been brought into stark relief in Myanmar in light of the rapidly evolving political and economic changes sweeping the country. Few issues are seen as more administratively and politically challenging or discussed more fervently throughout the country than issues relating to the HLP sector. As one recent report put it, “Land confiscation for agribusiness has been on the rise since the late 2000s, with a total of nearly two million acres allocated to the private sector by the then military government of the State Peace and Development Council.”⁶ This confiscation of land – or land grabbing – has inevitably sparked resistance and that resistance has been growing stronger and gaining broader support.⁷ Another report called upon the people and government of Myanmar to urgently convene a national HLP Summit to legislate a national HLP law to address the numerous existing flaws within land and HLP-related laws in the country today.⁸

BOX 2: LESSONS LEARNED - CAMBODIA

Cambodia is one of the most densely and extensively landmined countries in the world. De-mining activities have been underway for more than a decade and still expected to last for many years. They are overseen and coordinated by the Cambodia Mine Action Authority (CMAA). Among its other activities, CMAA monitors land post-demining to determine if land rights that were established at the time of handover continue to be respected. According to a report issued by the Geneva International Centre for Humanitarian Demining (GICHD), some lessons learned from the Cambodian experience include: Land status should be clarified prior to clearance; Local, community and regional stakeholders should be full participants in the processes of minefield determination and prioritisation for clearance; Land should be prioritised for demining that has the capacity to support anti-poverty programmes, with existing (or plans for) infrastructure such as water and adequate soil quality or access to labour or sales-related income earning opportunities; Because of the complexities of land-rights determinations, long-term clearance planning should be undertaken in conjunction with post-clearance land use negotiation and planning; and Post-clearance land use should be proposed a year or more before clearance is anticipated, as there could be protracted negotiations with sub-national or national authorities as to that use. (Source: GICHD/CIDHG, *Landmines and Land Rights in Cambodia*, December 2010 (Kristen Rasmussen)).

⁵ The term ‘housing, land and property rights’ encapsulates all rights within international human rights law that affect or impinge in any way on the residential realities of people everywhere, in particular those HLP rights found within instruments such as the Universal Declaration on Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and many others.

⁶ Transnational Institute (TNI) & Burma Centrum Nederland (2013) Access Denied: Land Rights and Ethnic Conflict in Burma - Burma Policy Briefing Nr 11, May 2013. Available online at <http://www.tni.org/briefing/access-denied> (last accessed 20 June 2013), pp 1-2 citing Department of Agricultural Planning (DAP), Ministry of Agriculture and Irrigation (MOAI), Republic of the Union of Myanmar, 2011).

⁷ *Id.*, p. 6.

⁸ Displacement Solutions (2012) Myanmar at the HLP Crossroads, available at <http://displacementsolutions.org/files/documents/MyanmarReport.pdf>. See also: Scott Leckie, Guidance Note on Developing Policy Options for Addressing Land Grabbing and Speculation, 26 June 2012.

11. The fierce competition for land already well underway in much of the country is only likely to worsen as potentially millions of acres of now unusable landmine contaminated land gradually become available through landmine clearance and consequently capable of generating considerable profits. The higher the perceived market value of the land, the more intense will be the competition: communities to whom land legitimately belongs will wish to return to their ancestral homes; government officials will wish to apply laws which they believe strengthen their positions to own, control and exploit land, particularly land seen as having large economic potential; international investors will wish to access cleared land that they believe hold the potential for profit through resource extraction and other activities; and finally, domestic business interests (some of which are widely known to be “crony”-led) will wish to acquire land recently cleared of landmines. For all these reasons, the potential for major HLP conflicts over de-mined land is extremely high, and the need to incorporate HLP rights issues into the mine action efforts from the outset of the process cannot be overstated.

BOX 3: LESSONS LEARNED - YEMEN

The Yemen Executive Mine Action Committee (YEMAC), established in 1999, is the exclusive mine/ERW clearance authority in Yemen and is responsible for coordinating all mine action activities in the country. YEMAC's policy is to leave all land dispute resolution in the hands of local authorities. Land clearance areas are viewed by YEMAC as falling into 4 obvious, but useful, conflict categories 1. No conflict before or after mine action; 2. Conflicts that exist before clearance; 3. Conflicts that arise in the community during clearance as a direct result of the clearance (on the basis of the perceived high value of the previously contaminated land) and 4. Conflicts that arise in the community after clearance (on the basis of the perceived high value of the previously contaminated land). The highest priority for demining in Yemen is land with the highest risk of injury or death and/or highest value to the community concerned. A GIHCD report finds that there are some significant obstacles to an equitable approach to land rights issues affecting de-mined land in Yemen. These include: The lack of an effective land registration system; The lack of recourse to judicial process to arbitrate disputes and the lack of access to the justice system in general, especially in rural areas; The need for the presence of more, stronger and more effective human rights groups to work on land rights issues; and The need for YEMAC to develop the capacity to be involved in land rights determinations. *Source: GIHCD/CIDHG, Landmines and Land Rights in Yemen, November 2010 (Henry Thompson).*

12. Beyond competition for de-mined land, the demining process will open much more land than the land that is actually de-mined. While mine action in transportation corridors will be vital in facilitating both landmine survey and clearance actions, as well as expanding economic development activities for communities, these same processes, however, will also likely render substantial pieces of uncontaminated land vulnerable to land grabbing, outside investment, and confiscation or seizure by companies or government or the military, all of which may cause additional forced displacement and eviction, loss of assets and human rights violations.
13. Further complicating matters, the peace process in Myanmar remains very fragile. Clashes continue in Kachin State, Shan State and elsewhere, and ceasefires are understood to be tenuous. No comprehensive peace agreements have been reached, though there has been progress towards political dialogue on many fronts. The Karen Human Rights Group (KHRG) and others have documented increased land grabbing and land confiscation in the context of ceasefire agreements and peace negotiations in Karen and Mon States in particular, but to a degree in Karenni and Shan States as well.⁹ Among many ethnic civil society groups and non-state armed groups (NSAGs), there is great concern that the peace process has changed the investment climate in ethnic nationality areas, making outside investment more feasible and creating the conditions for a rise in land loss and land grabbing. Land grabbing on newly de-mined land can only impact negatively on the peace process.

BOX 4: LESSONS LEARNED - SRI LANKA

Land grabbing in recently de-mined areas, of course, is not a threat unique to Myanmar. One study on Sri Lanka, for instance, notes that recently cleared land was taken illegally by politicians and religious actors. In Sri Lanka, overall guidance for mine action is provided by the National Steering Committee on Mine Action, which is comprised of government ministries, donors, UNDP, UNICEF, demining agencies and others. Legislation is pending to establish a National Mine Action Centre, which would be a governmental body to coordinate mine action. There has been no systematic effort by mine action groups to address land issues. The government of Sri Lanka, has prioritised the clearance of residential land to facilitate resettlement of refugees and IDPs, but little attention has been paid to land rights or to strategies for long-term sustainable land use. This has led to land disputes as well as problems relating to the livelihood and security of those who are resettled. To rectify this, stakeholders need to coordinate efforts and enhance communication between organizations and with the communities they serve to assure a participatory and inclusive approach and IDPs should be permitted to “go and see” their lands before they return so that they can assess for themselves whether it is feasible and safe to return. This will avert re-displacement, becoming stranded and becoming dependent on government assistance. *Source: GICHD/CIDHG, Landmines and Land Rights in Sri Lanka, August 2010 (Bhavani Fonseka).*

⁹ Karen Human Rights Group (KHRG) (2013) *Losing Ground: Land conflicts and collective action in eastern Myanmar*, available at: <http://www.khrg.org/khrg2013/khrg1301.html>.

14. Yet another concern with respect to demining is that, without a durable peace agreement, many villages and communities see landmines as a form of protection from government incursions. For generations, Tatmadaw campaigns have sought to consolidate territorial control in ethnic nationality areas, which has led to the heavy militarization of large portions of these territories. NSAGs have also sought to assert and consolidate their own territorial control. To the extent that mine action will increase access and ease of movement for Tatmadaw soldiers, there is considerable concern that mine action will inevitably strengthen the Tatmadaw's hand in asserting territorial control over long-disputed areas. While villagers in affected areas certainly do not 'like' landmines, in at least some instances they feel they serve to provide a measure of protection, and because they know where the landmines are in their area, they do not feel themselves to be in any major danger. Thus, some actors take the view that mine action will strengthen the government's side in the peace process, further marginalize NSAGs, enable further militarization of ethnic areas, and deepen trends towards land grabbing and land loss.

BOX 5: LANDMINES AND LAND RIGHTS – GENERAL LESSONS

Landmine survey and clearance inevitably implicates land rights issues. As one report puts it, “it is virtually impossible for any activity involving change in the status of land and boundaries not to have an influence on land rights. Removing landmines and ERW from these spaces alters the local context, by make previously alienated resources available and changing the status of land. New opportunities for wealth accumulation and competition over land are created”. Recommendations from this report, include: Establish links with humanitarian and development organisations that deal with conflict affected populations, and national and international organisations dealing with land issues; Promote community participation in priority-setting; Recognise the special needs and vulnerabilities in relation to women and their land rights; Ensure a formal land handover process; Put in place a post-clearance monitoring process; Consider land rights when setting mine action priorities; Collect data on post-clearance land use and intended beneficiaries; When developing contracts with mine action organisations, include the need to partner with land rights organisations in the contract documents; Raise awareness about land rights and laws at the community level; Seek alignment with and minimise contradictions among various policies on land rights; Promote balanced local recruitment; and Encourage mine action organisations to report on the developmental outcomes of mine action. Source: GICHD/CIDHG, Landmines and Land Rights in Conflict Affected Contexts: GICHD Policy Brief, Geneva, December 2010.

15. By all accounts, land grabbing in the country is widespread and government responses to these practices has been inadequate so far. A recent report states that, “land acquisition and compensation procedures so far lack transparency and adequate and systematic regulation and monitoring, and have generated widespread allegations of corruption, irregularities and far-below market land rates.”¹⁰ Though these processes continue unabated, the government has begun paying at least a measure of attention to the problem of land grabs, which indicates that there is awareness of the severity of the land grabbing question at the highest levels of government. Among other measures, in June 2012, in response to growing criticism about behaviour affecting land rights in the country, the President established the Land Allocation and Utilization Scrutiny Committee, headed by the Minister of the Ministry of Environmental Conservation and Forestry (MoECAAF) to advise the President on changes that are needed on land use policy and land laws. While in July 2012, the government formed a Land Confiscation Inquiry Commission to examine the question of land grabbing. Steps such as this are important, but the real test will come when this body and others attempt to actively stem land grabbing throughout the country. The government’s will and capacity to address land grabbing will, of course, directly impact on the treatment of land rights in the landmine survey and clearance context.

¹⁰ Supra Note 6, Access Denied, p. 6.

III. THE HLP RIGHTS OF COMMUNITIES TO LAND PREVIOUSLY CONTAMINATED BY LANDMINES

16. Landmine and ERW survey and clearance operations are being planned, and related standards, policies and protocols are being developed within a context in which relevant national land legislation is, in large part, outmoded, and widely perceived to be highly skewed in favour of government, military and business interests to the detriment of the rights of communities and ordinary citizens.¹¹ This is particularly true in the extensive areas of the country where communal and customary land laws prevail, and which are sadly, not yet recognised under formal statutory law; recalling, of course, statutory and traditional law must be viewed against a backdrop of universal international law principles that provide a framework for HLP rights. Similarly, in NSAG controlled areas, a wide variety of different approaches to HLP rights are apparent, none of which have been addressed within peace agreements, and which add additional layers of complexity to the formal determination of HLP rights. In some instances, NSAG rules on land administration include the issuance of land deeds.
17. As such, there is no simple way or single source of law for determining rights to land that has been deemed free of landmines through survey and clearance in Myanmar. Mine action efforts carried out in the country, therefore, will take place within a highly imperfect and enormously complex legal environment that does not adequately protect the rights of the farming sectors of the country, nor those of members of ethnic communities whose land rights are regulated by customary laws. Nevertheless, there are three key legal regimes which can be explored in terms of the degree to which each respects and protects the basic HLP rights of the population of Myanmar

¹¹ See, for instance, Legal Review of Recently Enacted Farmland Law and Vacant, Fallow and Virgin Lands Management Law Improving the Legal & Policy Frameworks Relating to Land Management in Myanmar, Food Security Working Group's Land Core Group, Yangon, November 2012.

VILLAGE IN
TANINTHARYI REGION

Image: NPA
Location: Myanmar



III.A. HLP RIGHTS UNDER MYANMAR LAW

18. More than 70 laws in Myanmar address aspects of the housing, land and property sphere, some of which are new, but the vast majority of which are outdated, inconsistent with basic human rights provisions under international law and in dire need of revision.¹² The 2008 Constitution does not explicitly recognise citizen's rights to HLP guarantees, but it does enshrine a number of rights of direct relevance to the framework of housing, land and property rights, including a guarantee of "equal rights before the law" and "the right to settle and reside in any place within the Republic of the Union of Myanmar."¹³
19. Two particularly important new land laws addressing aspects of the land sector were among the very first pieces of legislation adopted by the Thein Sein government in March 2012: the *Farmland Law* and the *Vacant, Fallow and Wasteland Law*. However, these laws are largely seen to be insufficient in protecting the full spectrum of housing, land and property (HLP) rights of all citizens of the country. One recent report, for example, notes that "the new laws do not recognize customary and communal land rights at all. Nor do they consider the right of return of hundreds of thousands of ethnic villagers who have been displaced from their ancestral lands due to the decades-old conflict and economic marginalisation. Consequently, the new laws are seen as exclusively benefitting the private sector, particularly large foreign investors, at the expense of smallholder farmers, who make up three-quarters of the population...[and are] "widely seen as benefitting mainly, if not exclusively, local cronies and ex-generals - some of whom were involved in drafting and/or passing these laws as newly-elected MPs."¹⁴
20. Under Myanmar law that dates back to 1952, the State owns virtually all land in the country. And despite the fact that rural dwellers, farmers and villagers can register the land that they occupy and use in accordance with the new *Farmland Law* and acquire user certificates, only a small percentage of farmers have thus far done so. Moreover, few communities with reasonable and legitimate claims to land that is currently mined can actually present legal documents proving their rights to the land because of a lengthy history of poor or nonexistent record-keeping and a lack of recognition of customary or traditional land rights. This is even more so in ethnic ceasefire areas and areas of ongoing conflict than in other areas of the country because much of the land rights in these areas are of a communal or customary nature, neither of which involves documentation or is formally recognised in the new land legislation of the post-reform period.

¹² Scott Leckie & Ezekiel Simperingham, *Housing, Land and Property Rights in Burma: The Current Legal Framework, Displacement Solutions*, Bangkok, 2009.

¹³ Chapter VIII of the Constitution outlines fundamental rights and duties of citizens, and contains Secs. 347. The Union shall guarantee any person to enjoy equal rights before the law and shall equally provide legal protection; 348. The Union shall not discriminate any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, official position, status, culture, sex and wealth; ...353. Nothing shall, except in accord with existing laws, be detrimental to the life and personal freedom of any person; ...355. Every citizen shall have the right to settle and reside in any place within the Republic of the Union of Myanmar according to law; 356. The Union shall protect according to law movable and immovable properties of every citizen that are lawfully acquired; 357. The Union shall protect the privacy and security of home, property, correspondence and other communications of citizens under the law subject to the provisions of this Constitution; ...370. Every citizen has, in accord with the law, the right to conduct business freely in the Union, for national economic development, and; ...372. The Union guarantees the right to ownership, the use of property and the right to private invention and patent in the conducting of business if it is not contrary to the provisions of this Constitution and the existing laws.

¹⁴ *Supra* Note 6, pp. 2-3.

21. The *Farmland Law* establishes a system of land registration¹⁵ for farmers that ostensibly provides land use certificates that, once secured, create rights to sell, exchange, access credit, inherit and lease the land to which they hold rights. However, the prevailing view is that this new law will not provide sufficient land tenure security for farmers as the law in fact fails to provide adequate protection against arbitrary and forced displacement or land confiscation. Tenure rights under the *Farmland Law* are not secure because Government retains the power to revoke the user certificates if any of the strict conditions of use are not complied with in full. The general consensus of observers is that the law sacrifices security of tenure for commercial interests, and that the law will fail to successfully address widespread land grabbing and other HLP rights violations.¹⁶ This reality will, thus, provide additional challenges for those engaged in land rights-sensitive mine action.
22. Moreover, the *Farmland Law* sets up an ill-defined administrative scheme that lacks the kinds of rule of law safeguards that are necessary for stable, HLP rights-protective land ownership administration system, and further, denies access to independent judicial review. The law contains vague rules with respect to farmers' obligations, a multi-layered appeals process with each appellate level appointed by the same central authority and unduly harsh penalties for non-compliance. All of this makes the process inordinately complex and the consequences of missteps disproportionately severe. This law will inevitably make farmers (who form a large majority of the country's population) wary and intimidated. A simpler, more user-friendly and farmer-protective process would be far preferable; but even a simple administrative and dispute resolution process can be intimidating to people who lack the education and experience to navigate through it.
23. The *Vacant, Fallow and Wasteland Law (2012)* adopted at the same time as the *Farmland Law*, allows leases of State land classified as 'vacant, fallow or wasteland' for 30 year periods. It limits the amount of land that can be leased at any one time to 5,000 acres, with a total maximum limit of 50,000 acres for any single person or entity. Both nationals of Myanmar and foreign entities can lease land under this law subject to a two-step process involving approvals from the Myanmar Investment Committee and then the Land Allotment Committee. Some have claimed that 50% of the land in the country could be classified as technically 'fallow', which, if correct, may cause displacement to become rampant as the new law is implemented.¹⁷ A considerable proportion of the affected land in ethnic areas in particular, is governed by customary land laws, which are not officially recognised under the new laws.¹⁸

¹⁵ Under Section 4, "A person who has permission to use farmland shall have to apply for a Land Use Certificate to the Township Land Records Department Office passing it through the relevant Ward or Village Tract Farmland Management Body"(unofficial translation).

¹⁶ Several aspects of the law undermine farmer tenure security. Chapter II, section 8 and Chapter III, section 9(a) of the Law, for instance, permit privately negotiated property transfers for the first time since the adoption of the Land Nationalisation Act of 1953 (which was, importantly, repealed under the new law). This relaxation of the Government role in determining land transfers exposes farmers, particularly those who are poor, to the temptation to sell their rights to use the land for short-term gain and makes them vulnerable to displacement by speculators and large-scale corporate agricultural interests.

¹⁷ For an overview of some of the structural flaws in both of the 2012 land laws, see: Legal Review of Recently Enacted Farmland Law and Vacant, Fallow and Virgin Lands Management Law Improving the Legal & Policy Frameworks Relating to Land Management in Myanmar, Food Security Working Group's Land Core Group, Yangon, November 2012, 13-14. See, also: Karen Human Rights Group, Losing Ground: Land Conflicts and Collective Action in Eastern Myanmar, March 2013; Displacement Solutions, Myanmar at the HLP Crossroads, November 2012.

¹⁸ "The result of these two new land laws is that families and communities living in upland areas - now labeled 'wastelands' - have no legal land rights and land tenure security. ... The two land laws dispossess farmers, especially upland subsistence farmers, of their right to farm, and more broadly their right to land and to decide how they will use and manage their farm and forestlands". Kevin Woods, K. Agribusiness Investments in Myanmar: Opportunities and Challenges for Poverty Reduction, Yunnan University Press, Kunming, Yunnan, PRC China, 2013.

BOX 6: ACCESS DENIED - A RECENT REPORT BY THE TRANSNATIONAL INSTITUTE AND THE BURMA CENTRUM NEDERLAND

The new land and investment laws benefit large corporate investors and not small-holder farmers, especially in ethnic minority regions, and do not take into account land rights of ethnic communities. The new ceasefires have further facilitated land grabbing in conflict-affected areas where large development projects in resource-rich ethnic regions have already taken place. Many ethnic organisations oppose large-scale economic projects in their territories until inclusive political agreements are reached. Others reject these projects outright; Recognition of existing customary and communal tenure systems in land, water, fisheries and forests is crucial to eradicate poverty and build real peace in ethnic areas; to ensure sustainable livelihoods for marginalized ethnic communities affected by decades of war; and to facilitate the voluntary return of IDPs and refugees; Land grabbing and unsustainable business practices must halt, and decisions on the allocation, use and management of natural resources and regional development must have the participation and consent of local communities; and Local communities must be protected by the government against land grabbing. The new land and investment laws should be amended and serve the needs and rights of smallholder farmers, including all ethnic regions. *Source: TNI & BCN, Access Denied: Land Rights and Ethnic Conflict in Burma* (Burma Policy Briefing No 11, May 2013).

24. In addition, the lack of both land registration documents and identification documents further complicate the issues concerned. Many members of ethnic groups do not possess personal identity documents which are the official basis of both citizenship rights and corresponding rights to access land registration documents.

III.B. HLP RIGHTS UNDER CUSTOMARY, TRADITIONAL AND NSAG LAW

25. In ethnic nationality areas, which include the highest levels of landmine contamination in Myanmar, the vast majority of land is held under customary law rules where shifting cultivation (*dtaungya* agriculture) is highly common. Thus, because land is generally held under customary law practices, most land in ethnic areas is subject to very limited protection under current statutory law in Myanmar. Very problematically, neither of the 2012 land laws formally recognise customary land rights, even though this is the main form of land rights practiced by most ethnic groups, shifting cultivators and others in the country.
26. Moreover, to the extent there is any land rights documentation in ethnic nationality areas, it has often been documented by armed opposition groups and not by the central government. The implications of these factors are twofold: first, it is important that land rights be negotiated as part of peace agreements; and second, any determination as to land rights must take into consideration both customary land rights and land rights that have been established under NSAG documentation.

III.C. HLP RIGHTS UNDER INTERNATIONAL HUMAN RIGHTS LAW

27. The question of rights over de-mined land in Myanmar also needs to be approached in light of the housing, land and property rights accorded to communities and individuals under prevailing international human rights law, and which clearly provides for greater levels of protection than

current domestic law in the country.¹⁹ Indeed, these HLP rights standards are far more extensive than commonly known. People everywhere – including Myanmar – are entitled to the full spectrum of housing, land and property rights recognized by international legal norms. Every State is obliged to ensure the protection and enforcement of these rights; implementation is not optional, nor can implementation be delayed indefinitely. Under the entitlements and obligations inherent within this bundle of rights, people everywhere are meant to be able to live safely and securely on a piece of land, to reside within an adequate and affordable home with access to all basic services and to feel safe in the knowledge that these attributes of a full life will be fully respected, protected and fulfilled. If it can be shown that lost access to, use of or ownership over housing, land or property is incurred by people in violation of their HLP rights and protections, appropriate forms of reparation and restitution must be accorded.²⁰

28. In essence, HLP law constitutes a composite of the following existing rights found within international human rights law: the right to adequate housing and rights in housing, the right to security of tenure, the right not to be arbitrarily evicted, the right to land and rights in land, the right to property and the peaceful enjoyment of possessions, the right to privacy and respect for the home, the right to HLP restitution/compensation following forced displacement, the right to freedom of movement and to choose one's residence, the right to political participation, the right to information, the right to be free from discrimination, the right to equality of treatment and access, the right to water and the right to energy.
29. The people of Myanmar, therefore – just as people everywhere – are entitled to live in a society where HLP rights are treated with the seriousness accorded them under international human rights law, and in accordance with the maximum of resources available to the State to respect and protect those rights. Far more needs to be done within the reform process, in particular in terms legislative and land reforms, to weave the provisions and sentiments of HLP laws directly into the domestic legal framework of Myanmar, as well as within the context of mine action.

¹⁹ International agencies are becoming increasingly engaged in the protection and promotion of HLP rights in their in-country work. For instance, in 2011 at the request of International Federation of Red Cross Red Crescent Societies (IFRC) Displacement Solutions developed an HLP Rights Checklist that it felt would be useful for the Movement to have to help it avoid situations in which it may act contrary to its Charter or where it is not maximizing its influence in the most positive manner possible within the HLP sector. This Checklist may also be of assistance for mine actors in Myanmar to gauge policy and practice against prevailing international HLP norms. The HLP Checklist contains fifteen points: 1. OVERARCHING PRINCIPLES - Do no HLP harm; Ensure secure tenure for everyone; Be flexible and pro-poor in orientation; and Base HLP responses on community-led initiatives; 2. HLP-RELATED PRACTICES TO AVOID AND RESIST - Land grabbing; Regressive planning measures; Involuntary permanent resettlement/relocation; and Restrictions on freedom of movement and other rights; 3. UNDERSTAND THE HLP RIGHTS OF DISASTER AFFECTED PERSONS - People affected by disaster have human rights, including housing, land and property rights. These need to be understood and taken seriously throughout the recovery process; 4. IDENTIFY LOCAL AND INTERNATIONAL HLP ACTORS - Many institutions and individuals have responsibilities within the HLP sector. These HLP actors need to be identified and consulted at the earliest possible time; 5. UNDERSTAND THE HLP LEGAL AND POLICY FRAMEWORK - Housing, land and property law and policy are often complex and unique. HLP law and policy in affected countries need to be properly understood and contextualized in order to ensure optimal shelter responses; 6. CLARIFY HLP OWNERSHIP AND TENURE RIGHTS - Existing HLP ownership and tenure rights should be quickly and accurately clarified, ensuring that owners, tenants and informal sector dwellers are treated equitably; 7. DETERMINE THE TYPE AND LIKELY SCALE OF ANY HLP OR OWNERSHIP DISPUTES - HLP Disputes arise in many post-disaster settings. Both the type and likely scale of such disputes needs to be determined; 8. FOCUS ON TENURE SECURITY - All disaster-affected persons must be guaranteed adequate security of tenure protection throughout the entire post-disaster period and recovery process; 9. IDENTIFY GROUPS WITH SPECIAL HLP NEEDS - Many different social groups may be disproportionately affected by disasters, including women, children, persons with disabilities, the elderly and others. These groups need to be identified and disaggregated. Special measures will be required to ensure that the rights of such groups are met in full; 10. DETERMINE THE SCALE OF HLP DAMAGE AND DESTRUCTION - The scale of housing, land and property damage and destruction needs to be assessed and analyzed as promptly as possible; 11. UNDERSTAND LOCAL METHODS AND CAPACITIES OF HLP ADMINISTRATION - methods and procedures for housing, land and property administration may vary between countries. These need to be understood prior to developing longer-term HLP recovery policies; 12. UNDERSTAND THE HUMAN RIGHTS IMPLICATIONS OF RETURN, RESETTLEMENT AND RELOCATION - When return to one's original home is neither materially possible nor desired by the affected population, resettlement and relocation of some disaster-affected communities may be required. The human rights implications of any proposed resettlement or relocation needs to be fully understood, and only engaged in subject to the full participation of the people affected; 13. IDENTIFY POSSIBLE AND ADEQUATE LAND SITES FOR TRANSITIONAL AND PERMANENT HOUSING - New land sites may be required to transitionally house or provide permanent new housing to disaster-affected persons. Such sites should be promptly identified and registered; 14. IDENTIFY POSSIBLE HLP ADVOCACY STRATEGIES FOR IFRC - IFRC staff may identify important legal, policy and practical gaps in HLP protection. In some instances, it may be appropriate for IFRC staff to strategically advocate for improved approaches to such HLP areas; and 15. IDENTIFY SOURCES OF HLP EXPERTISE AND ASSISTANCE - In some instances, IFRC officials may have the expertise required to fully address HLP concerns. In cases where such expertise or capacity does not exist, efforts should be made to identify local and international sources that can provide the expertise and assistance required. Source: Displacement Solutions, Checklist and Guidance Note on Housing, Land and Property (HLP) Rights Issues for IFRC Shelter Sector Staff and Volunteers in the Context of Disaster Response (5 January 2011).

²⁰ See, Displacement Solutions (2013) Bridging the HLP Gap: The Need to Effectively Address Housing, Land, and Property Rights During Peace Negotiations and in the context of Refugee/IDP Return, available at: <http://displacementsolutions.org/landmark-report-launch-bridging-the-housing-land-and-property-gap-in-myanmar>.

IV. STAKEHOLDER VIEWS ON THE LAND RIGHTS- LANDMINES NEXUS

30. In order to solicit views on principles and processes that should be applied to protect land rights in the course of landmine clearance, DS carried out an extensive series of interviews and meetings with scores of representatives from a very diverse range of mine action stakeholders. These included government officials and institutions, ethnic groups (political, ceasefire and armed), land experts, NGOs, international organisations and others in early-2013. In addition, in May and June 2013 two consultation workshops were convened, one in Yangon and the other in Chiang Mai, Thailand, at which a wide spectrum of mine action stakeholders were able to present their views on the land rights impacts of mine action activities in their areas of concern.²¹
31. The extensive consultations confirmed the fact that at this stage in the process of mine action in Myanmar finding common ground between mine action organisations has been and will likely remain difficult. Bearing this in mind, combined with the vast range of views on the issues concerned, a brief discussion of some of the general themes and concerns voiced by stakeholders follows. Specific suggestions by stakeholders as well as general concerns have been incorporated into the proposed principles and the proposed sequence of steps in sections 5 and 6 below.

²¹ Annex A contains a list of organizations that were consulted in the course of preparing this report, either through individual interviews, or at workshops in Yangon and Chiang Mai.

IV.A. CIVIL SOCIETY VIEWS

32. *Community participation:* Ensuring the active participation of people at the community level in mine action is a primary concern for many of the land rights actors who were interviewed for this report. There was a general view that community members must be brought into the discussion early and must be given a meaningful voice throughout. Points raised in this regard were:
- ▶ Community-level actors should be engaged in consultation early and often, and their input should be substantive.
 - ▶ Consultation must be held before higher-level actors have agreed on a task or area.
 - ▶ Community-level actors should have the chance to refuse landmine clearance.
 - ▶ Consultation should build on, not undermine, existing local structures for handling land-related challenges in local areas.
 - ▶ Consultation should address broader issues than what land is contaminated and who has rights to particular land; it should address issues such as whether mine action will make other areas of land available for use and long-term community planning concerns.
 - ▶ Consultation should be used as an opportunity to build, not undermine, trust and confidence in the peace process.
 - ▶ Both women and men should be actively involved as participants and leaders of consultations.
 - ▶ All parties with interest in landmine-contaminated areas should be consulted, including current community residents, both 'original' occupants still in the area and 'secondary' occupants who have moved into the area, as well as IDPs and refugees.
 - ▶ Consultation should be open, inclusive and participatory; it should not disempower anyone or marginalize critical voices in favour of voices supportive of mine action.
33. *CSO Involvement:* There was concern expressed that it was important that civil society organisations (CSOs) not be excluded from mine action consultation and decision-making. Many CSOs have deep connections and familiarity with land rights, with the communities in which they operate and with the broader context in which land rights and landmine survey and clearance intersect. They may surface concerns that other actors may not raise. Even if those concerns make other stakeholders – particularly government and NSAGs – uncomfortable, they should be aired in the interests of transparency and thorough examination of all the issues. Thus, while the inclusion of four stakeholder types in mine action seem self-explanatory – government, NSAGs, community-level actors, and mine action operators – there is a stated desire that civil society groups be integrally involved as well.
34. *Peace agreements will be necessary:* Many actors hold the view that comprehensive and durable peace agreements (not simply ceasefires) that specifically address in a fair and equitable manner *both* the land issue and mine action, as well as genuine political dialogue, will be necessary for mine action to succeed. Interviewees emphasized that without stable peace and political

MON VILLAGE

Image: NPA

Location: Burma, Myanmar





settlements, mine action would mean little for local communities in ethnic areas. Indeed, without peace agreements, mine action could have negative consequences, by depriving civilians of security and protection. The removal of landmines in some areas could facilitate Tatmadaw troop movements, lead to HLP rights abuses at the hands of military units (both government and NSAGs) and undermine confidence and trust in the peace process.

35. *Take NSAG governance action into consideration:* Many civil society actors expressed the view that, to the degree that a land rights administration system has been established in ethnic areas, the rights established under that system should be taken into consideration in land rights determinations.
36. *Impact of funding:* Some civil society groups consulted for this project raised concerns that the high funding levels likely to be available for mine action create a highly competitive situation among operators that could lead some operators to accept funding for tasks that circumvent the issue of land rights. Mine action donors should be aware of this dynamic and should insist that as a condition to funding, land rights issues are appropriately addressed.
37. *Priorities:* Some actors engaged with the peace process and questions around refugee repatriation and return stress that refugees and refugee CBOs (such as KRC) strongly reject current plans around repatriation pilot projects. For these actors, it would be a great disappointment if mine action operators agree to clear corridors for return before their concerns about repatriation plans are addressed.

IV.B. GOVERNMENT VIEWS

38. Official government views on the land rights issues implicated in landmine survey and clearance, as well as its views on other aspects of mine actions, are reflected in the Myanmar Mine Action Standards (MMAS). The Presidential Decree of October 26, 2012 provides the framework for the establishment of the Myanmar Peace Centre (MPC) and confers responsibility for the management of Mine Action in Myanmar to the Mine Action Centre (MMAC) as a component of the MPC. The MMAC, as the authority for Mine Action in Myanmar, is envisioned to be responsible for developing the requirements for all activities related to Mine Action in Myanmar and for ensuring these requirements are met by mine action operators.
39. MMAC's draft Priority Setting Standard, an element of the MMAS, calls for a process to prioritize sites for landmine removal that takes into consideration "planned development projects" and "who will benefit from the projects," as well as "land rights issues." The draft standard further states that "Mine action personnel should actively seek inputs from individuals representing all gender and age groups in each mine-affected community." Although the standard's language is very general, it reflects a commitment to addressing rights issues in the context of landmine clearance, and this is a promising basis upon which to build land rights-sensitive perspectives into the landmine survey and clearance actions in the country. Moreover, it creates an opening for a more detailed requirement that designates the specific steps to be taken to create meaningful

dialogue with affected communities and to make land allocation determinations that respect land rights under international, domestic and customary law.²² As things are rapidly changing in Myanmar with new agencies arriving and the start of new projects at both national and regional levels, the Myanmar Mine Action Programme needs to remain flexible and liaise closely with all stakeholders in order to ensure that the priority setting is in line with humanitarian needs and socio-economic development requirements in the country. During discussions in the preparation of the present report, some government actors have been frank in indicating that the MMAC will likely come under substantial pressure to prioritize mine action in areas favoring state development plans and military interests, and that NSAG actors are subject to similar pressures.

40. Another concern expressed about government is that there are many units and levels of government that will be interested in the land that is cleared through mine action and that this could hamper the effectiveness of the MMAC. Relevant government actors would include (not exhaustively): Ministry of Environmental Conservation and Forestry (MOECAF), Ministry of Agriculture and Irrigation (MOAI), Settlement and Land Records Department (SLRD), township-level authorities, and Farmland Administrative Bodies (FABs). Ministries may seek a role in signing off on/approving land claims even though township-level authorities may be the most relevant level of administration of land rights claims submission. Below this level authority (as such) is limited, and above this level (i.e. district or beyond) is probably too remote to be able to handle, in a meaningful way, highly localized questions around land use and ownership. The district level, however, could be relevant for review of claims taken in by township-level authorities.
41. Although it is unclear whether in all instances they have the capacity to do so, the FABs are entrusted with dispute resolution under the 2012 *Farmland Law*. For lowland agricultural areas this could be relevant – and perhaps greatly so. For upland areas and areas of shifting cultivation, however, the relevance of the FABs would be limited (in part due to the 2012 *VFV Law*). For roadways and transport corridors – which, indeed, are areas likely to be targeted for demining – the FABs might be able to play a role, depending on how that land is held and who might claim it.
42. It was noted in consultations that the long-term plan for MMAC is to open offices at the state/regional level, and these offices, ideally, should be places where all relevant stakeholders can come together to engage on mine action. However, civil society actors expressed serious concern whether any MMAC space would not be perceived as being independent or open enough or whether it would be perceived as a government space, and not a neutral or effective place for dialogue on mine action.

²² The full draft standard stipulates: “2. Priority setting within the Myanmar Mine Action Programme. In order to ensure that the most heavily landmine-impacted parts of Myanmar receive assistance, a ranking system (see Annex 12 A) will be established based at the State/Region and District levels. The Myanmar Mine Action Centre will be responsible for the priority setting at this level. Mine Action Operators are responsible for developing their own system following the principles stated in this document, and setting their own priorities at Township, Village Tract and Village levels. Key indicators for priority setting at State/Region, District, Township and Village Tract and Village levels are: (a) Total number of recent accidents/victims (disaggregated by age and sex), (b) Expected number of returnees (disaggregated by age and sex), (c) Type of land blocked by landmines including SADD on who uses the land; (d) Planned development projects including SADD on who will benefit from the projects; and (e) Land Rights issues related to the Confirmed Hazardous Area (CHA). The above factors, together with the size and number of CHA in a given area, shall be used to prioritise resource allocation; Good priority setting is based on good communication among stakeholders. The MMAC and the operators are to take national priorities and development initiatives into account at State/Region (National Sustainable Development Strategy) all the way down to the Village levels (regional development plans). At the community level priority-setting should involve a systematic gender analysis of needs in the field, as well as of balanced consultation at all levels of decision-making. Mine action personnel should actively seek inputs from individuals representing all gender and age groups in each mine-affected community. This will allow them to obtain comprehensive and accurate information for identifying preferences, conducting surveys and mapping and prioritising clearance.”

IV.C. NON-STATE ARMED GROUPS' VIEWS

43. In the preparation of the present report, eight NSAGs were directly and indirectly consulted about the land rights-land mines nexus in areas under their control. Both the Karen National Union (KNU) and the New Mon State Party (NMSP) have developed land policies that are relevant. The NMSP is pursuing a distributive land policy in NMSP-administered areas and the KNU has been pursuing land titling in KNU-administered areas with technical assistance on mapping from the Karen Environmental and Social Action Network (KESAN) and the Karen Agricultural Department (KAD) as the lead institution for this initiative. In addition, the KNU adopted a policy in 2013 whereby Karen IDPs and potentially refugees seeking to return to their former areas can be issued land titles if they can show documentary or other evidence of formerly occupying the land in question. This policy is implemented by local KNU land departments (*mye-ya tana*). Both policies – the KAD policy and the *mye tana* policy – include landmine-contaminated land.²³
44. Some NSAG (and ethnic civil society) have expressed the view that demining activities at present are not desired. For instance, despite the ceasefire between the Myanmar government and the KNU, KNU officials indicated that they can still see troop movements; they still see military outposts and soldiers moving through their area. They do not 'like' landmines, but they feel they know where they are in their area; they feel they are not a clear danger to them on an everyday level. Until troops withdraw from their area, they feel that the landmines do provide some level of safety and security. Generally, they look forward to a time when they will not look to landmines for that kind of safety and security, but that time – a time of troop withdrawal and thus, presumably, a time of a more stable and sustainable peace – may yet be a long way in the future. This kind of message relates to documentation around civilian landmine use in eastern Myanmar. For this process, 'landmines as self-protection' represents another reason to take seriously community consultation and community voices in priority setting. Many consulted expressed deep reservations about mine action that are only likely to be overcome on the basis of negotiations and outreach with high-level government-and NSAG-side actors. These concerns were echoed by KNU township administrators and the KNU liaison officer in Kyaukkyi. Put simply, these actors feel that without greater trust and confidence in the peace process, mine action should not go forward. Even early-stage surveying activities could be misconstrued and undermine trust at local levels. Specific to land and mine action questions, some actors emphasized that an unstable and fragile peace process means that any land rights intervention secured at this stage may not be sustainable. Furthermore, to the extent that mine action may serve to strengthen the government's hand in an essentially unequal and asymmetric peace process, the ability of NSAG-side actors to take on land rights concerns will be diminished, and statutory Myanmar law will take on greater power (thus jeopardizing customary land tenure and *dtaungya* land in ethnic nationality areas).

²³ On the issue of HLP rights and the peace processes concerning ethnic areas, see: Displacement Solutions, Bridging the HLP Gap: The Need to Effectively Address Housing, Land and Property Rights During Peace Negotiations and in the Context of Refugee/IDP Return: Preliminary Recommendations to the Government of Myanmar, Ethnic Actors and the International Community, June 2013.

45. Inevitably, disputes will arise if a process such as this goes forward. For some – but not all – mine action operators, it is standard practice to cease mine action (or not begin it in the first place) if it emerges that there is a land dispute over the land that will be cleared. From a land rights perspective, this is a welcome practice. However, it raises the question of what constitutes a land dispute. If ethnic conflict in Myanmar can be understood as at least in part territorial in nature, is it not the case that, perhaps in today's mixed-administration areas in particular, all land is disputed? Territorial disputes between the Myanmar military and NSAGs reach back generations. And in current land law in Myanmar, customary land tenure is not recognized, and fallow land in shifting cultivation areas is available for sale by the government. Land held under customary law and dtaungya land comprises the vast majority of landmine-contaminated land. Due to statutory Myanmar law, after it is cleared it will be highly vulnerable to seizure and confiscation. If community-level actors believe they hold the rights to a piece of land, but statutory law renders it available for seizure by or sale to government, military, or commercial actors, does this conflict amount to a land dispute?
46. As for advocacy with NSAGs – which could include ensuring that cleared land not go to companies or investment projects, and encouraging NSAGs to raise concerns about, and seek solutions to, mine action indirectly leading to land loss and militarization in ethnic areas – some mine action operators have already forged close relationships with key decision-makers. Land-oriented bodies in NSAGs should be part of outreach efforts as well, as mine action operators and other actors need to have a clearer understanding of relevant land policy from NSAGs. In addition, some actors consulted for this process have raised concerns that, given that NSAGs do not always lead through democratic decision-making, key decision-makers may move forward on decisions without consulting lower-level NSAG authorities or brigade commanders. Mine action organisations who engage with NSAGs should be aware of this dynamic, which could lead to high-level approval for mine action against the stated position of lower-level officers or authorities who have a clearer sense of the landmine situation at a local level. This is a general point about NSAG engagement, but it also holds for the question of who, in NSAGs, mine action actors or other actors should engage with on questions around land rights and mine action.
47. Myanmar and Karen civil society organizations assert that the KNU has been aware of the importance of housing, land, and property (HLP) rights issues within the ceasefire negotiations from the earliest stages. The eleven points agreed in January 2012 include an explicit, albeit very general, mention of land rights²⁴ – apparently the only mention of land rights in all of the ethnic ceasefire agreements signed thus far – while the KNU is said to have raised land policy very clearly in the second round of negotiations in April 2012. More precisely, the agreement states that the government agrees to “7. Release all political prisoners and provide solutions to settle land rights issue”. In addition, the Karen Agriculture Department (KAD), one of thirteen departments under the KNU, is working with the Karen Environmental and Social Action Network (KESAN) to use GPS and GIS for land documentation in KNU-held areas. The KNU plans to use this documentation for KNU land titling, and the KNU will use the ceasefire negotiations as a platform for trying to convince the Myanmar government to recognize KNU titles. Among the ethnic groups currently engaged in ceasefire negotiations, the KNU has clearly been one of the most engaged on HLP rights.

²⁴ KNU (13 January 2012), ‘Statement on initial agreement between KNU and Burmese government’, available at <http://www.karennationalunion.net/index.php/burma/news-and-reports/news-stories/statement-on-initial-agreement-between-knu-and-burmese-government>.

48. The KNU's concerns over HLP rights should come as no surprise, as there are a number of pressing land issues in Karen areas. Since the beginning of ceasefire negotiations in early 2012, Karen organizations have documented increased land confiscation due to mining, logging, infrastructure development, and plantation projects. Lack of consultation and compensation, forced relocation and displacement, and unilateral implementation have been highlighted as aspects of this confiscation trend, as businesses with ties to the Myanmar government have sought to pursue investment in areas deemed newly stable due to the ceasefire process.²⁵ Thus while conflict-related abuses have declined since the opening of negotiations, the talks have contributed to a changing investment climate, which has in turn created conditions for land confiscation. The emergence of land-related abuses in the wake of ceasefire negotiations is a trend that has been noted in other non-Burman areas as well; it is often connected to concerns that the ceasefire process has grounded development in ethnic areas while sidelining discussion about the need for political settlement of long-term grievances.
49. Karen civil society groups have also been vocal about HLP concerns in the context of return and repatriation of internally displaced people (IDPs) and refugees. In a joint statement released in September 2012, a number of Karen CBOs highlighted the importance of having a framework for resolving land issues in advance of refugee repatriation. The statement also notes the importance of land-mine clearance and calls for a more open and inclusive process for consultations and assessments. Indeed, civil society leaders stress that discussions and planning around repatriation have not been open enough, and that they have caused heightened tension and fear among IDPs and refugees. Local people's vision of what they want to go back to, and how they want to go back, has not been adequately sought out or understood. Several reports touching on HLP issues have caused particular consternation within Karen civil society: that land has been confiscated to build government-administered resettlement camps in Karen areas; that border-based refugees in Thailand have been told not to speak openly, in refugee camps, about repatriation; and that industrial zones in a number of sites slated for heavy investment have been discussed as relocation areas for IDPs and refugees.
50. The Karenni National Progressive Party (KNPP) openly recognizes the centrality of housing, land, and property rights to a successful peace process in Karenni State. On land issues in particular, the KNPP points to four factors: the need for full recognition of customary land tenure; the need to issue land titles not just to people in urban areas but also people in remote rural areas; the weakness of ownership protections for peasant families and smallholder farmers, especially since the passage of the two new land laws in March 2012; and the importance of addressing the issue of land that has been confiscated in the past by Myanmar military forces. According to KNPP General Secretary Ku Oo Reh, KNPP land policy coalesces around these four main concerns, and though capacity is limited, the KNPP is interested to pursue land documentation in Karenni areas in order to issue titles (similar to the recent work of the Karen Agriculture Department). He notes as well, however, that the KNPP has yet to really pursue in-depth discussion of HLP rights within the ceasefire negotiations, as he says there have been more fundamental concerns to approach first.

²⁵ See, for instance, Karen Human Rights Group, *Losing Ground: Land Conflicts and Collective Action in Eastern Myanmar*, March 2013.

51. HLP concerns in Karenni areas present some contrasts with other ethnic areas. First, land confiscation has largely remained a matter of seizures by the Myanmar military for military purposes, whereas in other areas, increased investment – in natural resources and extractive industries especially – has meant that private companies are driving land confiscation more than the military now, although these companies are closely tied to the military and benefit greatly from military support for their projects. In Karenni areas, megaprojects on the scale of special economic zones and major hydropower projects are less feasible due to rugged terrain and distance from markets and infrastructure. Relatively small-scale mining and logging, along with overland border trade with Thailand, are central to market activity in Karenni areas. Thus increased land confiscation on the backs of ceasefire negotiations in other areas is less an issue here, as companies don't see the area as ripe for large-scale investment. Less investment generally translates into less land confiscation, though the military is still seizing land. Karenni leaders point to a military training centre, the establishment of which included seizure of a reported 2,700 acres of land.²⁶
52. Other contrasts include how villagers raise concerns to the government and the issue of abandoned land being occupied by others since the displacement of its original cultivators. On the former point, Karenni leaders note that the KNPP takes seriously the need to listen to villagers in part because villagers have no other way of raising complaints to the Myanmar government – whereas in other areas ethnic CBOs have highlighted local people increasingly addressing concerns to elected members of parliament (MPs). It would seem that in Karenni areas villagers have looked less to the emerging political system for redress, and continue to see the KNPP as their main advocate. On the latter issue of current land occupation, Karenni leaders stress that land abandoned during displacement has largely not been occupied by new settlers, as immigration from lowland areas to Karenni areas is more difficult and less common than movements from Burman areas to other ethnic areas, which are generally less remote and easier to access from lowland and central areas. This dynamic has implications for questions of resettlement and restitution. The KNPP and the Karenni Social Welfare and Development Centre (KSWDC) both suggest that IDPs who have remained unstable in their movements since being displaced are likely to seek a return to what they see as their original land, which though not yet secure due to lack of Myanmar troop withdrawals, may nonetheless be unoccupied. Refugees from camps in Thailand, on the other hand, have often long been settled away from their land in Karenni State; they may be more likely to see a new location, rather than their original land, as a better resettlement option within the context of return and repatriation.
53. When the New Mon State Party (NMSP) signed a five-point ceasefire agreement with Myanmar government negotiators on 1 February 2013, it was the seventh agreement achieved by the Myanmar government since it began talks with ethnic armed groups in December 2011. One of the more limited ceasefire agreements negotiated, the five points cover cessation of open conflict, peace delegation plans for national-level peace talks, the opening of NMSP liaison offices, restrictions on movement of weapons, and some territorial negotiations.²⁷ This initial agreement, which has yet to be expanded upon, is not strong on HLP rights. The NMSP says

²⁶ See Kantarawaddy Times (20 August 2012), 'Govt troops deploy tanks in Karenni', available at <http://ktimes.org/en/news/regional/item/221-govt-troops-deploy-tanks-in-karenni>.

²⁷ Mizzima (1 February 2012), 'New Mon State Party, gov't sign preliminary agreement', available at <http://www.mizzima.com/news/inside-burma/6521-new-mon-state-party-govt-sign-preliminary-agreement.html>.

they have sought to raise land tenure and land rights issues in talks with the government, and although they have been rebuffed thus far, they will continue to raise questions around land and restitution, especially when talks become more advanced. Mon civil society organisations suggest the NMSP is genuinely concerned about issues relating to land and HLP rights, but in these initial stages, they have prioritized other issues they see as more pressing (such as basic concerns around a halt to fighting and negotiations around territorial control). Nevertheless, if and when the NMSP does more actively engage HLP questions within ceasefire talks with the Myanmar government, CBOs stress that the NMSP will need a more coherent set of policies around land rights. Currently, genuine concern notwithstanding, the party lacks an organized stance around land rights, whether in the context of ongoing land confiscation or discussions around return and repatriation of refugees and internally displaced people (IDPs).

54. HLP concerns in Mon areas, as elsewhere in Myanmar's non-Burman areas, break down into land confiscation in largely government-controlled and mixed-administration areas, and growing debates around resettlement of displaced people. Mon CBOs have documented increasing land confiscation in the past year, highlighting private-sector investment in plantation agriculture (especially rubber) and the involvement of companies with close ties to the Myanmar government.²⁸ Activists and community leaders express concern that peace talks and the Naypyidaw-led reform process have created a climate of opportunity for companies seeking large-scale land acquisitions in Mon areas – to the detriment of local communities. Especially in and around Dawei, Ye, Kyaikmayaw, and Yaybyu townships, land loss has become a pressing issue for local people. Sangkhlaburi-based CBOs worry that the peace talks and ceasefire negotiations are creating a situation where the Myanmar government and government-tied companies are consolidating control in Mon areas, leading to an increase in land-related abuses for local communities. Meanwhile, Mon leaders agree that in the past, the primary actor seizing land from local people was the military, engaged in campaigns against the NMSP and other armed actors in Mon areas. In recent years, however, and especially in the last year, private companies – albeit with close relations with the government – have increasingly been the actors to whom local communities are losing land. In addition, CBOs and the NMSP are very concerned about the two 2012 land laws, which they see as strengthening the hand of the government and the private sector against ownership protections for local people.²⁹
55. Since the Myanmar government began ceasefire negotiations with armed ethnic groups in late 2011, the Shan State Army (also known as the Restoration Council of Shan State/Shan State Army, or RCSS/SSA) has signed a number of agreements with the government. These include a preliminary agreement in December 2011, several smaller agreements in January 2012, and a twelve-point agreement on 19 May that stands as the main agreement signed thus far.³⁰ However, clashes between the SSA (particularly SSA-North) and the Myanmar military have continued.³¹ Among Shan civil society, as with civil society from other non-Burman areas, there is great concern that the ceasefire process has created conditions for the erosion of HLP rights.

²⁸ See Karen News (25 August 2012), 'Mon political parties to fight land confiscation', available at <http://karennews.org/2012/08/mon-political-parties-to-fight-land-confiscation.html>.

²⁹ See for example HURFOM (29 May 2012), 'Examination and critique of the 2012 farmland bill', available at <http://rehmonnya.org/archives/2238#more-2238>.

³⁰ See Mizzima (2 December 2011), 'Shan State Army signs ceasefire agreement', available at <http://www.mizzima.com/news/breaking-and-news-brief/6245-shan-state-army-signs-cease-fire-agreement.html>; Shan Herald Agency for News (18 January 2012), 'SSA and regime sign new agreement', available at http://www.english.panglong.org/index.php?option=com_content&view=article&id=4351%3Assa-and-regime-sign-new-agreement&Itemid=301; Shan Herald Agency for News (30 January 2012), 'Naypyitaw- SSA North agree to uphold Three Causes on the basis of Panglong', available at http://www.english.panglong.org/index.php?option=com_content&view=article&id=4380%3Anaypyita-w-ssa-north-agree-to-uphold-three-causes-on-the-basis-of-panglong&Itemid=301; Mizzima (24 May 2012), 'A translation of Shan peacemaking agreement', available at <http://www.mizzima.com/research/7176-a-translation-of-shan-peacemaking-agreement.html>.

³¹ Irrawaddy (22 August 2012), 'Shan ceasefire starts to show cracks', available at <http://www.irrawaddy.org/archives/12107>.

In Shan State, large-scale development projects are widespread, such as the Tasang Dam in central Shan State – set to be Southeast Asia’s largest dam, and already the largest single investment project in Myanmar – and the Shwe gas pipeline, which, beginning on the Rakhine coast, cuts across northern Shan State and into China. With investment prospects seen as improving as a result of peace talks, civil society groups have sought to emphasize that these and other megaprojects are drivers of displacement and land loss for local communities, while even stability is elusive – groups say megaprojects are fuelling conflict over territory and resources.³² Continuing skirmishes between the SSA and the Myanmar military have been framed as jockeying over strength and influence in areas rich with development potential, while development-related impacts to communities’ HLP rights have been little discussed on either side of the peace negotiations. Discussions of resettlement have yet to reach an advanced stage. However, in late August 2012, plans surfaced to send refugees from Koung Jor camp in northern Chiang Mai province to a resettlement site in Mong Hta, in Shan State. This caused widespread alarm among camp residents and Shan civil society. Civil society groups put out a statement faulting the plan to send refugees to an area they say remains an active conflict zone,³³ while individuals close to the plan say discussions are only at a very preliminary stage, and no refugee will be repatriated to an unsafe area against her or his will. Though resettlement has become something of a tendentious issue, there is broad agreement on the need to better understand local people’s desires and concerns around return and repatriation. Leaders in the Shan community say IDPs and refugees, as with displaced people elsewhere in Myanmar, would likely prefer to return to where they came from, though in many instances that land will be still insecure or occupied by someone else now. In recent months Shan civil society has emphasized the impracticalities of return, at least in the short term, rather than a vision for how it might take place. The SSA, meanwhile, is thought to have little by way of coherent policy around HLP rights to be pursued in peace talks.

56. In meetings and in a number of statements, Shan community leaders stress that at the heart of their concerns over the ceasefire process is the pursuit of development projects before the resolution of long-standing political grievances.³⁴ This ‘development before politics’ approach can be seen in statements from Myanmar peace negotiators claiming that economic development in ethnic areas will lead to rebel groups laying down their arms³⁵ – a claim long disputed by ethnic civil society. In contrast, civil society groups criticizing the peace process – certainly including Shan civil society – often call for a suspension of large-scale development projects until genuine political settlement has been reached and adequate safeguards put in place. For these groups, unless there is a rethinking of the process that puts real political dialogue before the pursuit of development projects, the peace process will remain a factor helping to drive resource conflict and abuses of local communities’ HLP rights. In Shan State, home to a preponderance of megaprojects, this dynamic has become a matter of grave concern.

³² See statement titled, ‘Joint statement on current political situation and peace processes by community based organizations from Shan State, Burma’, released on 12 June 2012, available at <http://www.shanwomen.org/2011-12-10-17-10-22/our-recent-activities/249-joint-statement-on-current-political-situation-and-peace-processes-by-community-based-organizations-from-shan-state-burma.html>

³³ See statement entitled, ‘Shan community groups: Don’t push refugees back into active war zone’, released on 27 August 2012, available at http://www.english.panglong.org/index.php?option=com_content&view=article&id=4901:shan-community-groups-dont-push-refugees-back-into-active-war-zone&catid=mailbox&Itemid=279

³⁴ See statement entitled, ‘Shan community groups: Don’t push refugees back into active war zone’, released on 27 August 2012, available at http://www.english.panglong.org/index.php?option=com_content&view=article&id=4901:shan-community-groups-dont-push-refugees-back-into-active-war-zone&catid=mailbox&Itemid=279

³⁵ See for example ‘Joint statement on current political situation and peace processes by community based organizations from Shan State, Burma’, cited above. See also ‘Shan CBOs reject Naypyitaw’s peace conditions’, statement released 30 August 2012, available at <http://www.bnionline.net/index.php/news/shan/13621-shan-cbos-reject-naypyitaws-peace-conditions-.html>

IV.D. MINE ACTION ORGANISATIONS' VIEWS

57. Mine action organisations also hold a range of views on the intersection of land rights and landmine survey and clearance. Some view mine action as a purely technical humanitarian task that should be solely focused on landmine removal and public safety, without extensive attention to matters regarding land rights. Others see land rights issues and the broader legal, political and social context of landmine removal as crucial considerations for successful demining.
58. Of particular concern to mine action operators is the need to sign over responsibility to the highest possible national authority, which in Myanmar will be the MMAC, as quickly as possible for several key reasons. Firstly, prompt handover assists in protecting mine action operators against liability, i.e., if a mine accident happens on land deemed to be free of landmines through survey and clearance. In addition, quick handover ensures that the land is in the same state as when operations concluded – something that makes it easier to conduct a proper quality assurance/quality control (QA/QC) of the area (and if found acceptable liability ceases for the operator). If handover is delayed the operator may no longer be in the same area and will have to move back personnel to prepare and conduct the handover – and possibly move even more staff back if failing QA/QC. Another issue is that land normally should not be taken into use before the handover has been done and could leave land ‘unusable’ for long time as neither the operator or MMAC want land to be taken into use before formal handover has been conducted (will be impossible to do a proper QA/QC if the land has already been taken into use).
59. Some actors consulted in the preparation of this report believe strongly that mine action operators themselves may need to be a target of advocacy efforts. This might include encouraging operators to sign on to principles governing what kind of land they will clear, under what circumstances, data collection on land use/land ownership, and monitoring and assessing for land issues in the post-clearance stage. More broadly, some actors may consider pushing mine action operators to pursue mine action conditional upon land rights protections for local communities, and conditional upon progress in peace processes, and ensuring that mine action efforts are well-coordinated and supportive of community-driven land rights protection. Although many mine action operators see themselves as technical actors, land in ethnic nationality areas in Myanmar is a deeply political issue and this must be taken fully into account in the development of appropriate plans and policies. Operators should understand that they are key actors on a highly political issue; they should not ignore this reality and claim they are neutral, especially given an inherently asymmetric and unequal peace process in Myanmar.

A SCHOOL BUILDING IN
ONE OF MYANMAR'S MOST
HEAVILY MINED AREAS.

Image: NPA

Location: Myanmar



V. EIGHT CORE PRINCIPLES FOR LAND RIGHTS-SENSITIVE MINE ACTION

60. As noted, landmine and ERW removal activities in Myanmar is likely to commence in an environment where no final peace agreements have been signed governing the landmine removal process, where parallel land registration systems are in place (government rules and those applied by some ethnic groups, both inside and beyond conflict areas), and where current legislation relating to land questions is highly inequitable and biased against many of those who stand to benefit at the community-level from demining activities. In many respects, therefore, the circumstances facing mine action operators are exceptionally challenging in terms of protecting the rights of communities and individuals in areas where activities may take place. To apply, therefore, a *Do No Harm* approach will require mine action operators to actively bolster the now very weak position of communities' vis-à-vis others who may assert claims over what is viewed by communities as their land by placing land rights concerns at the forefront of mine action. Having thoroughly examined the prevailing situation in Myanmar and engaging in extensive consultation and discussion with scores of actors from all sectors engaged in mine action efforts, DS proposes the following eight core principles for land rights-sensitive mine action:

PRINCIPLE 1: LAND RIGHTS MUST BE INCORPORATED INTO MINE ACTION AND REFLECTED IN PEACE AGREEMENTS.

Mine action does not proceed in a political, legal, social or economic void. It must take into consideration the land rights context in which it unfolds and the short- and long-term land rights implications of survey and clearance. Thus, full investigation and a clear understanding of who has rights to which land and whether any land disputes are apparent are vital considerations in selecting areas for priority survey and clearance operations and in implementing those operations. All parties engaged in peace negotiations should include appropriately formulated principles on landmine issues within any eventual peace agreements.

PRINCIPLE 2: LAND RIGHTS MUST BE CLARIFIED PRIOR TO COMMENCEMENT OF DEMINING OPERATIONS.

All land claims and assertions of rights to land must be investigated and clarified prior to commencing clearance operations with a view to securing agreement between relevant actors or otherwise determining who has rights to land resources to be cleared of landmines and ERW's. Demining operations must not be undertaken in areas where land disputes are apparent and all land rights must be fully and finally determined prior to handover.

PRINCIPLE 3: COMMUNITY PARTICIPATION IN MINE ACTION IS CRITICAL.

There must be meaningful community participation in the priority-setting process through which lands are chosen for demining. Areas for mine action should not be prioritized in the absence of a direct request and/or approval from the affected communities. Both women and men must be engaged in this regard, as well as different ethnic and vulnerable groups. Members of the affected community must also be involved in land rights determinations. Community members should be represented in administrative bodies that are set up by relevant bodies to investigate and clarify land rights and community members should be actively engaged in the investigative process by providing oral history of land uses and other relevant evidence. Communities must have the power to refuse a proposal for demining if they believe it would be a hindrance rather than a help.

PRINCIPLE 4: PRIORITIES FOR DEMINING SHOULD BE BASED ON COMMUNITY NEEDS AND HUMAN RIGHTS PRINCIPLES.

Prioritisation of lands for demining survey and clearance must be based on the need for stable, sustainable communities and the fundamental human rights of those who were dispossessed from and have legitimate claims to the land. Returning refugees and internally displaced persons who were forcibly displaced during armed conflicts have rights to land restitution as the preferred restitution remedy should they wish to claim this right, and priority measures must be taken to secure the implementation of these restitution rights. Areas around public amenities such as hospitals, schools, markets, water resources and villages and contaminated community/small-scale farmer agricultural land must also be considered for priority demining activities.

PRINCIPLE 5: LAND CLAIMS MUST BE DETERMINED IN A FAIR AND EQUITABLE MANNER.

A fair, equitable and workable system to investigate and determine land claims must be established. Impartial and representative bodies should be established for prompt and equitable resolution of land rights disputes. Claimants must understand their rights and have an opportunity to present all relevant evidence and to hear all conflicting evidence. They must also have access to judicial remedies before an impartial judiciary if disputes cannot be resolved administratively. Language interpretation should be provided in all situations in which it is needed.

PRINCIPLE 6: ALL FORMS OF RIGHTS MUST BE CONSIDERED.

In determining who has rights to which land, due regard must be given to all forms of land rights that may apply, including those of a statutory, customary and informal nature, as well as international human rights norms and relevant constitutional provisions. Rights that have been established in areas under NSAG control must also be taken into consideration.

PRINCIPLE 7: DOCUMENTATION OF LAND RIGHTS MUST BE CREATED AND MAINTAINED.

Permanent solutions to land disputes must be implemented when land is cleared of landmines. Formal registration, databases and maps that document land that is cleared of landmines and the identity of parties who have rights to that land must be created. Documentation conferring enforceable land rights must be provided to land recipients during handover processes by the relevant bodies concerned.

PRINCIPLE 8: THERE MUST BE POST-CLEARANCE MONITORING AND ASSESSMENT.

Appropriate and periodic monitoring and assessment must be undertaken following the release of previously landmine contaminated land back to the community as a means to protect the land rights of communities who have re-occupied their land. A method must be established for any land disputes that arise concerning land that has been returned to legitimate rights holders to be reported to the appropriate authorities and entities, both national and international, and enforcement and follow-up capacity must be established.

VI. A SEQUENCE OF 14 STEPS FOR LAND RIGHTS-SENSITIVE MINE ACTION

61. Building on the eight Principles outlined above, a sequence of fourteen steps for land sensitive mine action will enable mine action in Myanmar to be pursued in a manner that addresses land rights and fully comports with and respects fundamental principles of human rights.

STEP 1: MINE ACTION STANDARDS AND COLLABORATIVE INFRASTRUCTURE FOR IMPLEMENTATION ESTABLISHED

Before mine action gets underway, there needs to be a solid framework for proceeding that is land rights-sensitive, well thought out and credible. The framework must be credible to the people of Myanmar, particularly those who are affected by landmines and the CSOs that work in and for those communities. It must also be credible to the international community, particularly the mine action organisations and donors without whom the technical work of demining would not be possible. The framework should be the product of a consultative process that engages mine action stakeholders and affected communities.

Work is already underway to develop the MMAC and to establish a set of Myanmar Mine Action Standards. These are crucial steps in assuring that there is a rational land rights-sensitive set of expectations and practices around mine action. As noted earlier, the MMASs have not yet set forth in any detail the protocols to be observed to assure that land rights are respected in the course of mine action.

However, the MMAC cannot successfully implement, oversee and follow up on the protocols for land rights-sensitive mine action without broad popular support and without engaging other stakeholders in addition to mine action organisations. Involvement of civil society organizations that focus on land rights, local village and other community-based authority structures, non-state actors and others is critical to the success and credibility of the mine action effort. While the MMAC might be establishing regional offices to administer mine action, if those offices act in isolation, they will only generate suspicion and resentment given the historical and ongoing tensions between the government and the Myanmar people.

One possible approach to engaging the appropriate stakeholders would be to replicate some version of the Mine Action Planning Units (MAPUs) that were established to implement mine action in Cambodia. The MAPUs were formed as collaborative committees of the relevant stakeholders including regional and local military representatives at the provincial level and empowered to implement and oversee mine action. The MAPUs activities are guided by a national prioritization framework on 'Socioeconomic Management of Mine Clearance Operations'.

Whether acting alone or in conjunction with other stakeholders, CSOs that address land rights are enormously important components of successful land sensitive mine action. While there are active, strong and engaged CSOs in many of the landmine-affected areas, there are also many areas that lack actively engaged CSOs and efforts should be made to establish and/or strengthen them in the areas where they are needed by communities themselves, NGOs and donors.

Models that could become the foundation for MAPUs already exist. As was noted in consultations, local-level committees formed and led by villagers, both formally and informally, have, for example, recently addressed issues of land confiscation in Karen State. Interventions around land issues and mine action should make every effort to build on, rather than bypass, local strategies such as these. Building on local structures where they exist is likely to be more effective and more sustainable than creating new structures.

Finally, while decisions about designating priority areas for demining will need to unfold at the national and local levels based on balancing a wide variety of factors, some advance general principles to guide priority setting can and should be set forth and incorporated into the MMASs before mine action commences. A set of general principles on prioritization should include:

- ▶ The rights of IDPs and refugees to return to land from which they were displaced.
- ▶ An emphasis on clearing land to protect the safety of community members.
- ▶ An emphasis on clearing land that can be made productive and a sustainable source of economic support and livelihood for small scale farmers.
- ▶ Avoidance of demining where there are land rights disputes that cannot be resolved through a claims process.
- ▶ Avoidance of demining in areas that are likely to be subject to land grabbing or environmental degradation.

STEP 2: AWARENESS-RAISING WITH LOCAL COMMUNITIES ON LANDMINE SURVEY AND CLEARANCE, LAND RIGHTS AND LAND LAW UNDERTAKEN

Land rights and land law in Myanmar are highly complex issues, rendered more complicated still by the fast-changing legal, political and economic situation. In order to have a voice in the decisions that affect their lives and livelihoods, it is crucial that community-level actors, including local people in ethnic nationality areas, grasp these issues in a way that makes sense in localized contexts. Community-level actors who live in or have the right to return to landmine-affected areas – which would have to include, at a minimum, villagers, IDPs, refugees in other areas and, potentially, secondary occupants of vacated land – would need to know about how and why they should participate in priority-setting for demining and be considering submitting claims. Yet, community actors cannot participate in the priority-setting process, nor can they advance their own legitimate claims to cleared land, if they are unable to safely return to their places of habitual residence, have not yet been involved in participatory priority-setting processes, do not understand their underlying rights and the processes that are set up for them to assert those rights.

Moreover, such awareness-raising should be a two-way process. For generations, local communities living with conflict and displacement have devised ways to confront challenges relating to land use and land tenure in insecure situations. A top-down, externally imposed land rights intervention could do more harm than good if it undercuts long-standing local strategies. Indeed, external actors who participate in awareness-raising of this kind – including not just INGOs, but also local CBOs or CBOs affiliated with NSAGs – should be prepared to listen to how local communities handle land-related concerns, and then assist in building mine action-related strategies that build on, rather than undermine, existing local practices. For example, in some parts of eastern Myanmar, local committees have been established – sometimes quite formally, sometimes more informally – to confront challenges related to land loss through outside investment or military seizures. Committees of this kind should be made active partners in awareness-raising work; local communities should not be seen as passive recipients of outside assistance of this kind.

Local CSOs are the best situated to undertake awareness campaigns. Ideally, CSOs would have or work with lawyers and/or paralegals who are well-trained in the relevant law, policies and processes.³⁶ Where CSOs already exist, they should be trained and, if necessary, strengthened to undertake awareness raising. To the extent that areas do not already have CSOs, they should be established. Awareness raising, community education and other interactions with community members must be conducted in local languages.

³⁶ Legal assistance pursued by Loka Ahlinn – with backing from the British Council and the EU – is one example of a CSO that is well-trained on land-related legal issues and that could engage in awareness-raising work.

STEP 3: NON-TECHNICAL SURVEY CARRIED OUT

Mine action operators will carry out non-technical surveying (NTS) to determine which areas community members know or believe to be contaminated with landmines and ERWs. The NTS will enable the presumed location of landmines to be mapped and will provide more accurate overall quantification of the extent of contamination. This will provide the raw data from which decisions about priorities can be made.

In gathering data about the location of landmines, the mine action organisations – either alone or in partnership with CSOs – should to the extent possible gather information about land usage and potential claims that can inform the prioritization and claims process. In addition to ascertaining the location and extent of contamination, questions from mine action organisations to community-level representatives in areas of possible contamination should include:

- ▶ Who do you believe owns this land?
- ▶ Who currently uses this land?
- ▶ Who used to own/use this land?
- ▶ How long has the current owner/user owned or used this land?
- ▶ Is the land registered? If not, do you intend to register it?
- ▶ Do you know how to register the land in question?
- ▶ Do you have any relevant documentation supporting your claim?
- ▶ Are you concerned about land grabs on this land? How about on nearby land?
- ▶ Will this land be able to be cultivated/used if it is de-mined?
- ▶ Does mined land prevent access to other land? If so, what uses of land or access to resources are obstructed?

With answers to these questions, mine action organisations and their partners will have a reasonably clear picture of how land rights issues are affected by the demining process in a given area and how demining can change the value or vulnerability of land nearby as well for contaminated land. The priority-setting/task-setting processes, can then be informed by recognition of the broader potential risks that demining might create.

STEP 4: COMMUNITY CONSULTED ON PRIORITY SETTING AND PROPOSED LAND USE PLANNING IN CONTAMINATED AREAS

Once the NTS has determined which areas are landmine contaminated, there should be a robust consultation with landmine-affected communities to determine how the demining activity should be prioritized. This community consultation should be undertaken by a MAPU-style entity or a CSO that is highly trained and well-informed about land rights and land processes. The “community” to be

consulted should be defined broadly, and must include IDPs and refugees who have been displaced from landmine-affected areas as well as current residents.

Community member input will reveal essential factors in determining priorities, such as why the area was mined, whether the community is interested in demining at the current time, the previous, potential and (if already established) planned uses for the land, the extent to which the removal of landmines will make accessible lands in addition to the land that is de-mined, and whether there are disputes as to who has rights to the land.

This exchange will also provide an opportunity to engage in community planning. Community land use planning is participatory and engages citizens in helping to shape the communities in which they live based on their own visions of community development, with regard to the provision of public services and the regulation of natural resources, as well as the designation of residential, agricultural and industrial land uses in the communities concerned. Community land use planning elicits democratic and equitable views on the preferred use of land within a given jurisdiction and has the potential to facilitate best-case outcomes in decontaminated areas because it recognises the vital importance of involving the community directly in determining areas of priority demining at the earliest possible stage of the process.

There are two further concerns about community consultation. First, community consultation should be meaningful and empowering and not merely a token gesture or solely a means of extracting information without giving communities a voice. There is some risk that community consultation will only be focused on locating sites of landmines and on getting access to contaminated areas. This manner of handling community consultation would represent the marginalisation of community-level voices in the mine action process. Second, it is particularly important that community consultation be undertaken before priorities are established. If the community is consulted only after government and NSAGs have designated land for clearance, communities will have limited space or opportunity to reject decisions already approved by these higher-level actors. Top-down strategies will only disenfranchise local people and discount their agency.

STEP 5: NATIONAL PRIORITIES FOR DEMINING ESTABLISHED

Once the community consultations on priority-setting have been completed, MMAC (and in NSAG-controlled areas, together with NSAGs) will need to make decisions about which broad areas or regions in the country should be initially de-mined. Top priority should be given to areas where peace accords have been concluded and that have incorporated language regarding landmine survey and clearance in those accords. Priority determinations will also no doubt be informed by the availability of resources. Beyond that, broad determinations should be informed by the results of community consultations and the general standards that will have been incorporated in the MMAS, including prioritizing corridors for return and repatriation of refugees and IDPs at the appropriate time.³⁷

³⁷ Some actors engaged with the peace process and refugee repatriation and return stress that refugees and refugee CBOs (such as KRC) strongly reject current plans around repatriation pilot projects. For these actors, it would be a great disappointment if mine action operators agree to clear corridors for return at this uncertain stage of the peace process.

For the prioritization process to be credible and supported by mine action stakeholders, to the maximum possible extent community-driven priority-setting, rather than government interests alone, should be the driver of national priorities. MMAC should resist pressure to orient landmine survey and clearance toward promoting state-driven development or militarization of ethnic nationality areas. To the extent that NSA-side actors become involved in priority determinations through negotiation or otherwise, they should resist pressure to act according to business interests and should respect the priorities of community-level actors.

STEP 6: LOCAL/REGIONAL PRIORITIES FOR DEMINING ESTABLISHED

After determinations have been made on a national level to deploy resources to particular regions for landmine survey and clearance, there will need to be local and regional decisions about priorities within the area or region. These determinations should be based on the results of the community consultation process and should particularly prioritize areas in which communities have made specific requests for priority demining. In general, local determinations should focus on land that will provide sustainable livelihoods for members of local communities – rather than on roadways or transport corridors, which could have negative livelihood impacts and drive new cycles of land-related conflict. Moreover, while consideration should be given to clearance to support humanitarian aims such as reducing the landmine casualty risk, clearance to address emergency casualty evacuation and so forth, communities, international agencies and NGOs should have the opportunity to request that certain sites be de-mined in order for projects to go forward and communities should have the right to deny or postpone demining where they deem it to be contrary to their interests.

STEP 7: LAND CLAIMS SUBMITTED

After a determination is made to clear an area of landmines and ERWs, and before the land is actually cleared, a determination must be made as to who has or will have rights to the cleared land. That determination will be triggered by the filing of land claims by community members, refugees, IDPs and others who believe they have legitimate claims to the land. The awareness campaign, outlined in Step 2 above will have informed potential claimants of the procedures that will be used to file claims. Trained lawyers or paralegals (“barefoot lawyers”) – who ideally would come from the affected communities --should be made available to assist claimants in investigating, gathering and presenting evidence.

Documentation of claims will be a major challenge and will require diligence and flexibility. Land registration and other public record-keeping has been erratic or nonexistent in Myanmar for decades, so there will be little in the way of official records to rely on in many parts of the country. Those who at one time may have had, or whose families may have had, some form of documentation of their land rights, may have lost that documentation after years of war and displacement. Many people do not even have national or other identification cards so it is difficult for them to prove who they are let alone prove they have land rights. Local actors who hold customary land tenure are also less likely to have documentation, while shifting cultivation raises documentation questions as well, given shared land use and rotational cultivation – all issues that complicate documentation. Refugees and IDPs will be

particularly disadvantaged because they are quite likely to have lost any documentation they may have had in the course of their exile.

Testimony about land claims will also be difficult to garner. In many places, legitimate claimants have been displaced from their land for generations and decades. Witnesses will have died; memories will have faded. Assistance by well-trained advocates to claimants will thus be enormously important because it will be so difficult to substantiate claims.

STEP 8: LAND CLAIMS DETERMINED

The determination as to who has land rights may in some instances be simple and straightforward, but in many cases because of the lack of documentation and paucity of other evidence may be quite difficult. In some instances there will be conflicting claims and the determination may be very controversial. In all instances, the determination should be made in a manner that will be unbiased, transparent and based on reasonably available and credible evidence. There must be a full opportunity for all interested parties to participate and present evidence.

The determination should be made by an entity that is fully familiar with and ready to apply the full range of land rights that are applicable – national constitutional and statutory law, customary and traditional law, NSAG determinations in ethnic group controlled areas, and international law. Farmland Administrative Bodies (FABs) may be the appropriate entities to make land rights determinations and resolve disputes if they can be constituted with local representation and with sufficient independence and autonomy in decision-making. Whatever the entity, it must have the full support of government and its decisions must be binding. The claimant must have the right to appeal to an independent judiciary if he or she is not satisfied with the determination.

STEP 9: TECHNICAL SURVEY/LANDMINE AND ERW CLEARANCE CARRIED OUT

Once land rights have been determined, mine action operators will carry out technical survey and clearance of landmine contaminated areas and ERW removal in strict adherence with the MMAS, thus ensuring the land is safe for use.

STEP 10: DE-MINED LAND CERTIFIED BY MMAC AS SAFE FOR USE

After the landmine and ERW removal is complete, the mine action operators will present documentation to MMAC that the land is deemed safe for use and, if the documentation meets the MMAS standards, MMAC will certify and record the land as released and/or cancelled. This is important to the mine action operators so that they are relieved of any potential liability for their good faith efforts.

STEP 11: LAND HANDED OVER BY MMAC TO COMMUNITY-LEVEL RIGHTS HOLDERS

MMAC should hold formal control over released and/or cancelled land as briefly as possible. As soon as possible, there should be a formal handover of the land to the rights holder along with the delivery of a formal document signifying that that individual or entity has the right to the land. At this stage it is useful to hold a formal handover ritual, as has been done in other countries like Cambodia that have gone or are going through landmine survey and clearance. A formal ceremony enhances the credibility and transparency of the land rights process and can make a powerful statement to the rights holder and the affected community that a permanent and irreversible step has been taken.

STEP 12: LANDMINE SURVEY AND CLEARANCE AND LAND RIGHTS DETERMINATIONS DOCUMENTED, RECORDED AND MAPPED

Once the previously contaminated area has been deemed free of landmines and ERW through survey and clearance and the land has been handed over to the legitimate rights-holder, the right to the land should be formally recorded by filing a copy of the formal document with a land registry – one either created for this purpose or one intended to be used for general purposes. In addition, the right to and boundaries for the land must be mapped. All of these steps will limit the possibility of conflict about the rights to the land in the future.

STEP 13: POST-DEMINEING MONITORING AND ASSESSMENT CARRIED OUT

As has been recognized by MMAC, it would be a mistake to assume that the formal handover of safe for use land by MMAC to the rights holder is the end of the mine action sequence. In order for the process to be permanent and not transitory, there must be monitoring and assessment following land handovers as a means to protect the land rights of community members who have re-occupied their land. Periodic monitoring and assessment by a designated group, most likely a CSO that has adequate training will be important. However, it will also be important to provide an mechanism for the rights holder to initiate a complaint about violations of land rights to the CSO or whatever entity is designated to monitor in order to trigger an investigation.

In many instances, rights holders who return to their property will have been displaced for years if not decades. Others who will re-acquire or acquire cleared land will not have sufficient grounding in the skills they need to use the land productively. It will thus be important to provide support for their ability to create a sustainable livelihood. This support can take the form of micro-loans, skills development training, financial and other education. The support effort would be most appropriately handled by a CSO that either already exists or is created and that has the appropriate expertise to undertake this role.



SOUTH EAST MYANMAR -
BRIDGE OVER RIVER DURING
THE DRY SEASON

*Image: NPA
Location: , Myanmar*



STEP 14: LAND RIGHTS ON HANDED OVER LAND ENFORCED

It will not be enough to simply monitor post-clearance impacts on land rights and to record violations; a mechanism must also be set up to enforce rights that have been established in the course of mine action. While a CSO would be an appropriate entity to receive and investigate complaints, there will need to be a body with governmental authority to address complaints that are found to be justified and to take corrective measures.

VII. CONCLUSIONS

62. In terms of land rights, mine action in Myanmar carries with it great hope and expectations, but also great risks. If mine action organisations and other stakeholders can unite behind the eight principles proposed above, as well as the 14-step sequencing process, we believe that the demining process can be used as a tool for strengthening the land rights of communities. Mine action organisations will achieve the best results when they are strongly committed to a *Do No Harm* approach that prevents manipulation of the demining process to assert unjust control over land, displace communities, increase landlessness and impoverishment and decrease livelihood options for communities. Rather, all mine action organisations need to support mine action operations that contribute to local, community-led economic and social development, improvement in land tenure security at the household and community level, and that minimize land grabbing other forms of forced displacement and HLP disputes or conflicts in cleared areas. It is not enough to consider landmine-contaminated land and who gets it after demining. Mine action, through increasing access to large areas in eastern Myanmar, will likely render vulnerable – or at least newly accessible – substantial pieces of uncontaminated land (to land grabbing, to land seizure and confiscation, to outside investment, to seizure by companies, government, the military, or NSAs). Under a *Do No Harm* heading, mine action operators should be willing to address this broader land question as well – not just the narrower issue of contaminated land.
63. Though it may seem unlikely from a humanitarian perspective, there are some communities in eastern Myanmar that are opposed to mine action. For some, the peace process is too fragile, and landmines are understood as offering protection against encroachments by the Myanmar military. Civil society groups and some NSAG representatives have echoed these concerns. Put simply, community-level actors in eastern Myanmar should always have the opportunity to refuse mine action, even if higher-level actors have already agreed it, for a given area. For many actors consulted for this process, questions around land rights in ethnic nationality areas raise some of the most fundamental questions around ethnic rights, democracy, and the peace process in Myanmar today. Mine action in ethnic areas will likely mean increased access to ethnic areas, and in the past, this has meant militarization, the plunder of natural resources, and land loss and displacement for local people. These factors have helped drive the long-term exclusion of ethnic people from Myanmar's political and economic systems. These factors have also perpetuated conflict for generations, and the peace process is, at best, at a fragile and early stage. In this context, mine action could have substantial negative impacts for local communities. Substantive and formally standardized community consultation procedures could help address many of the potential negative impacts of mine action in eastern Myanmar. Those actors who have long-term, on-the-ground experience working with communities in and around landmine-contaminated areas should consider developing consultation guidelines that mine action operators and other actors could try to integrate into Myanmar's national mine action standards. Formally standardized handover procedures could help address land rights concerns as well.

64. As it has been discussed thus far, the tasking process within mine action is a highly problematic and largely top-down procedure involving mainly government-and NSAG-side outreach by mine action operators (mostly due to the need to gain access to landmine-contaminated areas). While access is indeed a central issue, the deferral of community consultation until after higher-level approvals have been secured greatly restricts communities' decision-making power and skews power relations in the priority-setting process. Planning committees at local should be formed in key landmine-contaminated areas, which could allow priority-setting decisions to flow upwards rather than downwards in the mine action process.
65. Mine action needs to support the protection and promotion of the human rights of those with rights to land in a manner consistent with international laws, and must not be complicit in or knowingly supportive of actions that result in the infringement of these basic rights. Following the eight Principles and 14-Step Sequencing Process proposed will assist in precluding land rights abuses within mine action efforts and contribute significantly to generating land rights-sensitive mine action efforts throughout Myanmar.

A. LIST OF CONSULTATIONS

ACTORS REACHED FOR DIRECT CONSULTATIONS (33 ACTORS)

- ▶ Human Rights Foundation of Monland (HURFOM)
- ▶ Karen Environmental and Social Action Network (KESAN)
- ▶ Karen Human Rights Group (KHRG)
- ▶ Myanmar Peace Support Initiative (MPSI)
- ▶ Danish Church Aid (DCA)
- ▶ Committee for Internally Displaced Karen People (CIDKP)
- ▶ Karen Office for Relief and Development (KORD)
- ▶ Geneva Call
- ▶ Danish Demining Group (DDG)
- ▶ Norwegian People's Aid (NPA)
- ▶ Paung Ku
- ▶ International Peace Support Group (IPSG)
- ▶ Minister for Border and Security Affairs (Bago)
- ▶ Minister for Karen Affairs (Bago)
- ▶ Karen National Union (KNU) Township Administrators (2, in Kyaukkyi)
- ▶ KNU Liaison Officer in Kyaukkyi
- ▶ Group of villagers living in mine-affected area of Kyaukkyi
- ▶ Shan Nationalities League for Democracy (SNLD)
- ▶ Land Core Group (LCG)
- ▶ Myanmar Mine Action Centre (MMAC)
- ▶ The Land Centre (under the Myanmar Peace Centre)
- ▶ Loka Ahlinn
- ▶ Myanmar Peace Centre

- ▶ Dawei Development PCL
 - ▶ The Transnational Institute (TNI)
 - ▶ The Mines Advisory Group (MAG)
 - ▶ United Nationalities Federal Council (UNFC)
 - ▶ Backpack Health Workers Team (BPHWT)
 - ▶ (Chiang Mai-based group wishing to remain anonymous)
 - ▶ The Border Consortium (TBC)
 - ▶ Shan Sapawa/Ethnic Community Development Forum (ECDF)
 - ▶ US Embassy
 - ▶ Trocaire
-

YANGON: 48 PARTICIPANTS FROM THE FOLLOWING ORGANIZATIONS/INSTITUTIONS

- ▶ Peace Nexus
- ▶ Norwegian Refugee Council (NRC)
- ▶ NEED – Myanmar
- ▶ Independent lawyers
- ▶ National Human Rights Commissions (NHRC)
- ▶ Peace Law Firm
- ▶ Burma Partnership
- ▶ NPA
- ▶ Vriens and Partners
- ▶ Halo Trust
- ▶ MPC
- ▶ MPSI
- ▶ EcoDev
- ▶ General Administration (Ministry of Home Affairs)
- ▶ ActionAid
- ▶ Metta Foundation
- ▶ DCA
- ▶ HURFOM
- ▶ Peace Myanmar Aid (PMA)

- ▶ Shalom
- ▶ Spectrum
- ▶ MAG
- ▶ Immigration Department
- ▶ Forestry Department, MoECA
- ▶ Settlement and Land Records Department (SLRD)
- ▶ UNHCR
- ▶ SNLD
- ▶ Generation Wave
- ▶ Myanmar Peace Network
- ▶ DS

CHIANG MAI: 28 PARTICIPANTS FROM THE FOLLOWING ORGANIZATIONS/INSTITUTIONS

- ▶ DCA
- ▶ CIDKP
- ▶ NRC
- ▶ Karenni Social Welfare and Development Committee (KSWDC)
- ▶ KORD
- ▶ American Jewish World Service (AJWS)
- ▶ NPA
- ▶ Earthrights International
- ▶ DS
- ▶ Free Burma Rangers (FBR)
- ▶ MPSI
- ▶ KHRG
- ▶ KESAN
- ▶ Karen Agricultural Department (KAD) under KNU
- ▶ New Mon State Party (NMSP)
- ▶ Karenni National Progressive Party (KNPP)
- ▶ Kachin Women's Association of Thailand (KWAT)

BREAKDOWN OF CONSULTATIONS (WITH A FOCUS ON DIRECT CONSULTATIONS)

LAND RIGHTS ACTORS CONSULTED DIRECTLY (11):

- ▶ HURFOM
- ▶ KESAN
- ▶ KHRG
- ▶ LCG
- ▶ Paung Ku
- ▶ TBC
- ▶ Loka Ahlinn
- ▶ Dawei Development PCL
- ▶ TNI
- ▶ Shan Sapawa/ECDF
- ▶ Trocaire

PLUS FURTHER LAND RIGHTS ACTORS IN WORKSHOP CONSULTATIONS

MINE ACTION ACTORS CONSULTED DIRECTLY (9):

- ▶ NPA
- ▶ DCA
- ▶ DDG
- ▶ Geneva Call
- ▶ MAG
- ▶ CIDKP (MRE)
- ▶ BPHWT (VA)
- ▶ US Embassy (donor)
- ▶ MMAC

A SLASH AND BURN
FIELD USED BY IDPS IN
EASTERN BAGO

Image: NPA

Location: Eastern Bago





PLUS FURTHER MINE ACTION ACTORS IN WORKSHOP CONSULTATIONS

PEACE PROCESS ACTORS CONSULTED DIRECTLY (7+):

- ▶ MPSI
- ▶ IPSP
- ▶ MPC
- ▶ TBC
- ▶ SNLD
- ▶ UNFC
- ▶ NSAs (various)

PLUS FURTHER PEACE PROCESS ACTORS IN WORKSHOP CONSULTATIONS

GOVERNMENT-SIDE ACTORS CONSULTED DIRECTLY (5):

Ministry for Border and Security Affairs

Ministry for Karen Affairs

MPC

Land Centre under MPC

PLUS FURTHER GOVERNMENT-SIDE ACTORS IN WORKSHOP CONSULTATIONS

NSAG ACTORS CONSULTED (4+):

- ▶ KNU
- ▶ KNPP
- ▶ NMSP
- ▶ UNFC
- ▶ Indirect via GC: ABSDF, PNLO, PSLF

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