

Landmines and Land Tenure in Postwar Angola

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List of abbreviations and definitions

CED	Comissão Executiva de Desminagem
CNIDAH	Comissao Nacional Intersectorial de Desminagem e Assistencia Humanitaria
ERW	Explosive remnants of war
FAA	Angolan military
FAO	Food and Agricultural Organisation of the UN
GoA	Government of Angola
IDP	Internally dislocated person
INAD	the Angolan National Demining Institute
LIS	Landmine Impact Survey
MAG-	Mines Advisory Group
MINARS	Ministry of Social Assistance and Reintegration
MPLA	Movimento Popular de Libertação de Angola
NPA	Norwegian People's Aid
SHA	Suspected hazardous areas
Soba	local community leader, not hereditary
SOPs	Standard Operating Procedures
UNDP	United Nations Development Programme
UNHCR	UN High Commissioner for Refugees
UNITA	Uniao Nacional para la Independencia Total de Angola

1. Introduction

Angola's four decades of civil war continues to have a profound effect on recovery and development. The years of conflict resulted in the deaths of approximately one and a half million people and displaced up to four million (Foley 2007). When the conflict finally ended in 2002 much of the country's infrastructure was destroyed, approximately two million Angolans were close to starvation, and only about three percent of the country's arable land was farmed (FAO 2002; Foley 2007). The end to the war led to a scramble for land involving a variety of competing interests including, government, returning displaced smallholders, commercial interests, and migrants and settlers to new areas.

Land expropriation and concentration of land holdings by colonial settlers was one of the primary reasons for the independence war (Cain forthcoming). At the end of the subsequent UNITA (Uniao Nacional para la Independencia Total de Angola) war, disputes over land increased in frequency with the return of large numbers of displaced persons to areas of origin, or their settlement in new locations or areas that they occupied during the long war. The lands which were fertile and had easy access to the urban market (and free from landmines) in particular became the subject of numerous and volatile disputes between residents, returnees, migrants, ex-combatants, government, and commercial interests (Cain forthcoming).

Located in southwest Africa, Angola is the second largest exporter of oil in Africa, and the fourth largest exporter of diamonds in the world. Prior to the wars Angola was an exporter of food products. It was once the fourth largest producer of coffee in the world, and the third largest producer of sisal (Clover 2005). Presently much of the country's 14.5 million people are impoverished. The maternal mortality rate is one of the highest in sub-Saharan Africa. One in four children die before their fifth birthday, 70 percent of the population lives on less than two dollars a day, and the majority of the population lacks access to safe drinking water, sanitation, and basic health services (Foley 2007). At 8.6 people/km², Angola has one of the lowest population densities in the world. As a result there is no explicit competition for scarce land in much of the rural areas (Foley 2007). However there is considerable competition for land in the central fertile highland areas.

While two-thirds of the national population reside in rural areas they have very little land tenure security and hence little incentive to invest in their land, although this would provide for the much needed increase in food security (Clover 2005). Approximately 80 percent of Angolan farmers are subsistence agriculturalists producing little if any surplus, while two percent are commercial farmers with paid employees (Deve 2007). During the war, dislocation and migration to the cities was dramatic, constituting one of the more serious problems during and after the war. This has translated into a current large-scale eviction campaign in urban and peri-urban areas, and is one of the primary land rights problems in the country.

Over the decades of war in Angola landmines and other explosive devices were a primary weapon used by both the UNITA insurgency and the Movimento Popular de Libertação de Angola (MPLA) government (LCMM 2010). Landmines in the country have maimed approximately 80,000 people during and after the war (Foley 2007). A report by Human Rights Watch in 2005 noted that people were returning to communities via potentially mine-contaminated roads and bridges that were a target of mine laying during the war and resettling in heavily mined areas. With about 2000

communities affected by landmines, Angola is thought to be one of the most mined countries in the world, and the most mine contaminated country in sub-Saharan Africa (*GICHD 2008*).

2. Main land rights issues

2.1 Context and primary issues

The end to Angola's war in 2002 and the subsequent extraction of natural resources has fuelled the country's economic recovery to date. However, the return and reintegration of the general population and the solidification of durable peace is much more dependent on rights of access to land (*Cain forthcoming*). A primary issue is that land is held under customary forms of tenure for the vast majority of the population, but all land legally belongs to the state according to statutory law. During the country's four decades of armed conflict, land rights issues such as mass evictions, land grabbing, large-scale displacement and resettlement were primary features of the conflicts. The independence struggle in particular came to be equated with land rights (*Cain forthcoming*). As one of the primary reasons for the UNITA conflict, land rights continue to affect the country's recovery (*Cain forthcoming*). Subsequent to the UNITA war the many mine and UXO contaminated areas together with the country's destroyed infrastructure, isolated many returnee communities and put pressure on good land near services and towns where social services and non-agricultural jobs are concentrated (*HRW 2006*).

In rural areas, a very problematic issue is occupation vs. ownership of former colonial Fazendas (commercial farms) and the 'farm blocks'¹ from the independence socialist era. Both Fazendas and farm blocks disintegrated at different times during the wars and were then occupied by smallholders, who in many cases, considered them to be their ancestral land. However the cadastral maps to which these lands were attached came to be used by the Angolan elite. They titled this land and used it for commercial purposes, speculation, or rent, evicting the smallholder occupants. This process is currently ongoing and is facilitated by the existence and wide use of a colonial era map of the fazendas, along with the colonial land registry. At the same time, the country's cadastral and property rights records have not been updated in a systematic fashion since independence in 1975. Therefore, there is no accurate national level estimate of the amount of land that is public, private, communal, or informally held (*Cain forthcoming*).

Forced evictions from urban and peri-urban lands are a primary land rights problem in the country, often accompanied by force and violence by state security forces. Forced evictions have become one of the most contentious political issues in the country. As part of the eviction process, the government has destroyed houses and crops without compensation (*Foley 2007*). While most urban migrants arrived in urban and peri-urban areas in order to escape the war, migration continues today as people seek economic opportunity (*AI 2007*), and escape the lack of it in rural areas. Human Rights Watch notes that such evictions are in many cases carried out contrary to both Angolan and international law (*HRW 2007; also Kothari 2006*). Only a minority of urban and peri-urban inhabitants have what the state considers to be formal, secure land tenure. The remainder can easily lose any rights they may feel they have, particularly with the new land legislation.

The new land law by the middle of 2010 transferred informal land occupation into official 'illegal occupation' in urban and peri-urban areas, meaning that most people fall into this category (*Cain*

¹ Farm blocks were areas that were communally farmed under the Socialist experiment in Angola

forthcoming). The new land legislation also gives the state new and broad powers to reclassify land use in the name of the public good, thus making it susceptible to expropriation, private development, or commercial projects (*Cain forthcoming*).

At present, the future prospect of ongoing large-scale evictions in urban and peri-urban areas is significant. Aggressive slum eradication proposals have been disseminated which threaten tens of thousands of people with eviction in order to replace slums with commercial buildings (*Cain forthcoming*). While there are government and NGO organisations that provide services and advocacy for the urban poor, these are profoundly inadequate to the task of protecting the rights of those evicted or threatened with eviction (*Robson 2001*). At the same time, in the post-conflict period informal settlements around urban areas continue to multiply and grow very rapidly (*DW 2005*), revealing a problem of livelihood sustainability in the rural areas.

The situation regarding occupation of urban and peri-urban land subject to eviction is variable. While illegal occupation of such lands is clearly an issue, evidence supporting claims is varied and often weak. A good many occupants possess informal documents of some kind demonstrating purchase, while others have improvements and long term occupation to support claims. Still others have old documents demonstrating land allocations by government agricultural programmes in areas which have subsequently become peri-urban² (*Foley 2007*). Thus while there are a variety of documents that can be obtained through forms of occupation, purchase, or recognition of occupation by local customary authorities, in reality only those who have gone through the lengthy, expensive, arduous and corruption ridden process of obtaining formal title to 'surface rights' from provincial government have any real legal status. According to the World Bank, Angola is one of the most difficult countries in the world to register and transfer property titles (*WB 2006*). As a result, the majority of those who believe they have occupied or obtained their land in good faith and possess different forms of land and property documents, actually still face serious risk of expropriation by the state or commercial interests who have procured secure legal concessions to tracts of urban or rural land (*Cain forthcoming*). The Food and Agriculture Organisation (FAO) has been working with the Angolan government since 1999 in the construction of what is intended to be a participatory and decentralised land management system, with the aim of enhancing food security (*Deve 2007*). Progress in developing this system however is quite slow and it still has not been implemented. It remains to be seen what gains will be made in this regard.

The demobilization and (re)settlement of approximately 100,000 former UNITA combatants, carried out jointly by UNHCR and the Angolan Ministry for Social Reintegration (*UNHCR/MSR nd*), was accomplished over the course of three years with little apparent serious problem. The reintegration programme included survey of areas for return where land appeared to be available in the provinces of Moxico (three municipalities), Zaire (two municipalities), Lunda Norte (one municipality), Kuando Kubango (one municipality), and Uige (one municipality). Close to 70 percent of ex-combatant returnees settled in these locations (*UNHCR/MSR nd; Foley 2007*) (Figure 1). Return was further facilitated by local village elders (Sobas) who allocated land for free to returnees at an average of about one hectare per household. While no document was provided to returnees, there is an indication that they are included in local customary tenure arrangements and laws regarding inheritance and dispute resolution (*Foley 2007*). In a detailed study of the overall return process, Robson (*2006*) noted a relatively smooth process of return and reintegration, with relatively low levels of land related problems. The Robson study also noted that

² A 2004 study put the proportion of peri-urban land around Luanda at over 80 percent of all urban land (*DW 2004*).

the majority of returnees returned to their areas of origin, which facilitated land access through kin or other means. The study highlighted that potential threats to the land of returnees included encroachment by large land interests, including current fazenda landholders.

At the end of the war, the government held administrative control of no more than 25 percent of the country's total land area, primarily in and around Luanda, the provincial capitals, and the southwest of the country (*Cain forthcoming*). As a result, the return and resettlement of IDPs was seen as a secondary priority to asserting state administrative control, such that actual return was primarily accomplished with the resources from the local IDP individuals and communities themselves.

The primary reason for the relatively quick return of rural IDPs to their areas of origin was the need to reclaim land, given the likely prospect that it could be claimed by someone else (*Cain forthcoming*). At the same time, the international community was redirecting its attention and resources toward Afghanistan and Iraq, and provided limited support to the resettlement and reintegration process. While the government and the international community shared the goal of having IDPs return to areas of origin, this was difficult for troops from UNITA because many were faced with returning to locations that they may have looted or terrorized during the war. In addition, many ex-combatants had left their family land as long as 30 years earlier and upon their return, discovered that they had been bypassed or excluded from land inheritance practices--with inheritance the primary way to acquire land. At the same time, the ability of ex-combatants to gain land access in locations other than their areas of origin was quite difficult (*Cain forthcoming*).

While the role of customary authorities in land matters had disintegrated significantly during colonial rule and the war, the return and resettlement of close to three million people provided a restored role for the customary leadership in managing land disputes and providing testimonial evidence about historical land claims of families and their descendants (*Cain forthcoming*). The national demining organisation, the Angolan National Demining Institute (INAD), is aware that people are still returning to Angola from neighbouring countries, particularly in the south, and that this presents a difficulty in determining which areas need to be demined depending on where the returnees intend to go.

Nevertheless in many cases upon their return to home areas, IDPs encountered an unfriendly reception by those who stayed and suffered during the war. Land disputes also became aggravated by the actions of well intentioned humanitarian groups who provided highly uneven assistance to the local population. The Angolan state had a very limited presence in the areas of resettlement, and the Angolan justice system was among the weakest institutions of the postwar government (*Cain forthcoming*). Currently, most confrontations and conflicts over land rights take place over forced evictions on urban or peri urban lands (*Foley 2007*). Such issues are less problematic in rural areas and for this reason some organisations are promoting settlement projects in rural areas (*Foley 2007*), and presumably are paying attention to the prospect of landmines and ERW, although this remains unverified.

There are numerous reports of land grabbing of the best land in rural areas, particularly in the fertile central highland areas, with some indication that this could increase if rural infrastructure improves. The degree that land grabs are attached explicitly to mine action is unknown, because there is a general lack of transparency in land allocations (*Foley 2007*). Land grabbing can occur with mine action playing a role in a potentially preconceived arrangement to expropriate land. For

example, land that has been seized on paper is then demined for the new owner. When deminers arrive on the land to demine as per a request by the new owner, the local community first learns of the land seizure from the deminers. One demining organisation noted that in one case, after they had demined the land, the government re-zoned the land for a government agricultural project, complete with housing. The construction company even came to the demining organisation to verify that the land was cleared.

There is little political space for voicing concerns about land issues (or other problems regarding the state) in Angola. Open discussion and debate is discouraged with state-sponsored threats, intimidation, and action, and protests are responded to in a heavy handed manner. As a result, the Angolan government closes itself off to learning about potential solutions to problems. It prefers a centrally planned approach which draws on very little of the actual reality of land and property issues in the country. Yet, at the same time, it does not have the capacity to implement its centrally planned goals and objectives.

2.2 Relevant land related laws

From colonial times to the present day, Angolan lawmakers have shown a consistent preference for restricting the land rights of rural and urban smallholders. The government has also demonstrated its preference to channel landholdings and land resources into the hands of the elite, while periodically supporting mineral extraction and commercial agriculture (*Cain forthcoming*). Angolan legislation continues to reflect these priorities. The two primary tools with which formal title is given, are a land cadastre system which legitimises the inequity of the colonial land approach, and a reliance on urban master planning for urban and peri-urban holdings (*Cain forthcoming*). The laws below are the main laws related to land and property.

The 2004 Land Law and Law of Territorial and Urban Management

Toward the end of the war in 2001, work on a new land law began and was ultimately passed by parliament in 2004 as the 'Land Law and the Law of Territorial and Urban Management'. The new law was significantly delayed due to a lack of implementing regulations. As well, the drafting of the new law was guided by a set of Portuguese lawyers, which together with government, is based on a number of false assumptions and myths with regard to how customary tenure in the country worked. As a result, the new law does not reflect the realities, needs, and problems of the Angolan population. The law is significantly weak in a number of ways with regard to smallholder rights, and favours commercial interests. Particularly problematic for smallholders is the requirement that all landholders must register their land and obtain title within three years of the law's passage. Widely viewed as extremely unrealistic given the very low capacity of government, illiteracy among the smallholder population and the lack of needed formal identification documents (*Foley 2007*)

Certainly one of the most significant problems with the new land law was the speed with which it was drafted. A draft of the new land legislation was released in July 2002, just a few months after the official end to the war and drafting started in 2001, before the war ended. A team of Portuguese lawyers expedited this process which is perhaps the quickest production of new land legislation of any post-war country--and a large reason for its current failure.

The government invited public consultation on the 2002 draft. However, with population dislocation, food insecurity, and high levels of poverty at wartime levels for the vast majority of the population, it is difficult to see how such a call for consultation could be seen as realistic. This was particularly problematic given that the repeated failures of previous peace accords for the country

had resulted in a great many dislocatees not believing the war was actually over, and adopting instead a 'wait and see' position. Since the 'consultation' took place prior to the return of dislocatees to their home areas, the consultation did not facilitate input with regard to how the new law intersected with the land problems that were emerging after the war. Nevertheless two NGOs robustly sought to engage in the consultation process. Rede de Terra, a coalition of civil society organisations, worked with the government's Land Technical Commission to attempt to facilitate public discussion and debate. Another NGO, Development Workshop, worked with the Ministry of Urbanism to study the issue of informal urban land occupation (*Cain forthcoming*).

While the post-war land law put the responsibility for managing land access in the hands of the state (as did the previous law), the state institutions responsible for managing land were (and continue to be) weak and lacked capacity to implement the new law and regulations in a transparent manner, leaving it open to abuse and the actual management of land disorganized (*Cain forthcoming*).

The new law has also missed a significant opportunity to deal with the country's IDP population in urban and peri-urban areas and the regularisation of property rights in the country. During the war, there was an explicit acknowledgement of the validity of de facto occupation of land that had been acquired in good faith (*Cain forthcoming*). This was particularly the case because most occupants in urban and peri-urban settlements had purchased their land or had been allocated land by local authorities, and very few occupants had squatted on lands. Thus, most households had documents of various kinds that they believed provided them with some form of tenure security. However, the view of government changed after the war, such that these 'good faith' informal occupations are now seen as limited or illiegal (*Cain forthcoming*). Despite the government's endorsement of the international 'good practice' of progressively recognising existing occupations so as to upgrade them over time into secure forms of rights³, the land law stipulates the elimination of all occupancy (*usucapiao*) rights where use and occupation was solidified over time (*Cain forthcoming*). The law gave existing occupants three years (after the law was passed) to acquire formal titles after which those without titles would be deemed illegal. However while the three year period has now passed, the regulations for applying for title have still not been published (*Cain forthcoming*). At the same time, with urban and peri-urban land values rising, the government with private sector support has embarked on an aggressive slum clearance effort. This involves the removal of informal occupants to the periphery of urban areas, where the extreme fluidity of their land rights, together with other risks, makes their livelihoods precarious.

Overall, the current land law has resulted in several important outcomes:

1. The smallholder sector is left with scattered small holdings, with no prospect of legal expansion, and without legal access to fallow lands which have an important role in preventing land degradation (*Cain 2002*). In the current land law, as in the previous one, the acknowledgement of customary rights over land has not conferred tenure security nor prevented expropriation (*Pacheco 2002*).
2. The new law has increased the state's power to confiscate land for reasons of 'public use' which can then be given to large-scale commercial interests (*Cain forthcoming*).
3. The law does not fundamentally deal with the underlying problems which initially contributed to the war (*Cain forthcoming*).

³ The government of Angola supported this approach at the 1996 Istanbul Urban Forum

4. While there are a few improvements in the 2004 land law, the land tenure system in the country continues to be confusing, disorganised, and unsuited to deal with the many complex land issues which have emerged after the war. There are numerous misalignments between the law and reality, and the law's actual implementation holds the prospect of causing many problems and potential conflicts (*Cain forthcoming*).

The only mention of landmines explicitly in the land law is reference to the classification of lands as suitable for various kinds of 'installations' (article 25) with this depending on how close such lands are to mined areas.

The Constitution

The post independence constitution stipulated that the state is the owner of all lands that are not explicitly privately held. Article 11 of the Constitution stated that "all the existing natural resources in the soil and in the subsoil ... are property of the state, who will determine the conditions of its profit and use" (*Hodges 2001*). The new Angolan Constitution continues along the same lines, and makes explicit that all land in the country belongs to the state. What is offered (to commercial interests) is the option of a 90 year lease.

The Civil Code

The Angolan Civil code was largely inherited from the Portuguese and has remained a fundamental aspect of the legal framework. Provisions in the Civil Code stipulate that while all land formally belongs to the state, individuals can be granted 'occupation' rights (*Cain nd*).

Memorandum of Understanding between the Government of the Republic of Angola and the UNHCR for the Voluntary Repatriation and Reintegration of Angolan Refugees, 1995

This agreement notes that Angolan returnees "shall have the right to return to their former places of residence or to any other places of their choice in Angola". And that, "[t]he government shall ensure that returnees have access to land for settlement and use, in accordance with relevant Angolan laws." In addition the government is obliged to provide assistance in terms of recovery of property, including land. The Angolan government's compliance with important parts of this agreement after the close of the war in 2002 was in most cases quite weak.

Norms on Resettlement of Displaced Persons 2001

This law was intended to facilitate the return and resettlement of IDPs to their home areas, ensure that the resettlement and reintegration process was accomplished in a participatory way, and guarantee IDPs minimum standards of basic land access and social infrastructure. While this legislation was well intentioned in terms of guaranteeing the rights of IDPs and incorporating international best practices, when the mass return of IDPs took place in 2002 and 2003, there existed very little capacity on the part of the government to implement the law and guarantee the minimum standards that it described (*Cain forthcoming*).

Law on The Bases For Private Investment, 2003

This law presents favourable legal arrangements for large scale commercial investments in a variety of sectors, including land.

While the above is the primary legislation regarding land rights in Angola, there are a variety of other laws about land related issues. These include: Delimitation of Economic Activity Sectors 2002, Licenses for the Exploration of Forests and the Period of Annual Exploration 2000, the

Geologic and Mines Activities Law 1992, the Diamonds Law 1994, Law on the Delimitation of Concession Areas and Renegotiation of Contracts-Mineral Resources 2000, and The Environmental Law 1998 (*Coelho 2002*).

2.2 Land rights and gender

The Land Law is remarkably remiss on gender issues, in particular women's land rights. Nevertheless an NGO which advises government on land issues has recommended that the forthcoming regulations for securing formal tenure in peri-urban areas include equitable gender rights to land among other issues. It remains to be seen if this will be the case.

The Angolan reintegration programme for ex-combatants was quite narrow and excluded the important gender dimension of wives and abducted girls who were attached to the UNITA soldiers. The UNITA soldiers that the programme intended to assist (a subset of the total) were provided repatriation assistance along with economic and educational opportunities. These were denied to the women and girls who accompanied soldiers voluntarily or were otherwise forcibly attached to them as cooks, porters, 'wives', etc. The only way for such women and girls to benefit from such assistance was to continue their attachment to the formal soldiers, often under abusive circumstances (*Nielsen 2008*).

3. Mine/ERW contamination: Actors, problems, impact

3.1 Key mine action actors

The government of Angola is the primary mine action actor in the country. With donor support⁴ the government has recently reformed the institutional arrangements dealing with mine action. The new arrangements put the responsibility for the coordination of the overall mine action sector into a newly created institution called the National Intersectoral Commission for Humanitarian Demining (CNIDAH), which is a commission that reports directly to the Council of Ministers (*Teixeira 2008*). CNIDAH functions as both Angola's national mine action authority, in association with the Executive Commission for Demining (Comissão Executiva de Desminagem, CED), and as the national mine action centre. CNIDAH is responsible for the coordination, planning and organisation of all operations dealing with mine action, including NGO and commercial demining operators. (*LCMM 2010*)⁵. CNIDAH has operations offices in all 18 provinces, which determine annual priorities for demining based on input from NGO priorities, the Landmine Impact Survey (LIS), provincial plans, and requests from traditional leaders (*LCMM 2010*).

In addition to CNIDAH, the government created INAD, the National Demining Institute, the national demining operator which is a public institute under the Ministry of Social Assistance and Reintegration (MINARS). CED manages the demining activities of INAD, the Angolan military, and the Office for National Reconstruction. INAD is led by the minister of MINARS (*Teixeira 2008*). INAD has received significant donor support from UNDP and the Japanese government for increasing the management and technical capacity of the institute at the headquarters level, as well as for a technical demining school (*Teixeria 2008*).

The Angolan government's capacity to engage in effective recordkeeping, data collection and analysis, and information dissemination is quite low. The country's national mine action database

⁴ Donor support has decreased in recent years due to a combination of donor fatigue, and the global economic downturn.

⁵ While a signatory to the Mine Ban Treaty, the government has acknowledged continuing to use antipersonnel mines in the final years of the war from December 1997 to April 2002; and the country has yet to enact laws to implement the treaty (*LCMM 2010*).

remains weak in terms of functionality, despite years of technical assistance, funding, training, the provision of computer equipment, and the establishment of provincial level offices for CNIDAH (LCMM 2010).

The international mine operators in Angola include: DanChurchAid (DCA), Halo Trust, Mines Advisory Group (MAG), Norwegian Peoples Aid (NPA), and People Against Landmines (MgM). The national demining operators include, apart from INAD, the Angolan military (FAA), along with 38 commercial companies. The risk education operators include HALO, DCA, MAG, MgM, and NPA. As well there are ten national risk education operators (LCMM 2010). The Angolan Border Police also conducts some demining, and the regular police are involved in the demolition of mines and UXO.

Humanitarian demining is primarily the domain of the international NGOs in Angola, while the task of clearing infrastructure for economic development is the job of INAD, the commercial companies, and FAA. As of the end of 2009, Angola's humanitarian demining capacity comprised five international NGOs with 62 teams and 562 deminers (LCMM 2010). The Angolan military does not allow the international mine action NGOs to clear mined areas or battle zones which are near military bases, even if the local civilian population is at great risk (LCMM 2010). Since 2008, international funding for mine action has declined, resulting in the departure of two international demining NGOs, and reduced activity for the remaining five, including a reduction in the number of clearance teams (LCMM 2010). The wide variety of national demining companies that do commercial demining engage in clearance of highly variable quality, and are primarily involved in the clearance of national reconstruction projects, all of which must be 'cleared' even if there is no evidence of mines or UXO. Even potential diamond fields need to be cleared.

3.2 Scope of the contamination problem

Contamination

The country continues to be heavily contaminated by landmines and ERW, and over 40 types of mines originating in 15 different countries have been found (LCMM 2010). All 18 of the country's provinces still contain mines, and the 2007 LIS identified 3,293 suspected hazardous areas (SHAs) in 383 of the country's 557 districts (LCMM 2010). The impacted communities represent approximately 2.7 million people (LCMM 2010). However the spatial extent and degree of residual mine and ERW contamination is not known with any degree of certainty, and different mine clearance operators have very different estimates, methodologies, and perspectives on the overall extent and location of the contaminated areas (LCMM 2010). While the current LIS is well regarded by mine action organisations, some believe the areas the LIS notes as contaminated, are in fact exaggerated.

There is uncertainty as to whether Angola is still affected by the remnants of cluster munitions. While their use in the war is confirmed, it is unknown when they were used or by whom. There is some indication that only the Angolan Armed Forces used cluster munitions, as UNITA did not have access to aircraft during the conflict.

The extent of the remaining mined areas is largely unknown, and significant numbers of previously unregistered mined areas continue to be discovered (LCMM 2010). This is one reason why conducting a second LIS has support in the mine action community. CNIDAH is planning a second LIS, to commence at the end of 2010, and it is estimated to take about two years to complete. One of the purposes of the second LIS is to visit the more than 300 communities that were not surveyed

in the first LIS (because they were not known about). For example to date not all roads, especially secondary roads, have been cleared, particularly in the south of the country. The second survey is also intended to assist in the release of land for agriculture and other community uses (*LCMM 2010*). Some demining operators believe that many contaminated areas have yet to be identified. For example, some NGOs have identified mine contaminated areas that were not previously known (*LCMM 2010*). In 2010, 31 new contaminated areas were discovered by HALO and NPA, in the provinces of Bengo, Benguela, Bie, Huambo, Huila and Kuando-Kubango, Kwanza Sul and Malanje (*LCMM 2010*). There are sporadic reports of new postwar use of anti-vehicle and antipersonnel mines, apparently by criminal groups (*LCMM 2010*). However the exact nature of their use is unreported. With regard to stockpile destruction, the government has not yet provided any details or made any official statement that all stocks have successfully been identified or destroyed (*LCMM 2010*).

Mine laying

Because for a certain period of time Angola was one of the superpower proxy wars, and oil funded the government and diamonds funded UNITA, both sides were able to access a wide variety of weapons and ordnance not often found in other developing country wars. Different approaches to laying mines were used during the war, such that little real overall pattern emerges. The various trained militaries laid mines with clear objectives. For example, the Cubans laid wide areas of mines in the south of the country to deter advancing South African forces and mined roads and bridges to deter troop movement. Economic assets were also mined to prevent them from being accessed by the opposing side. Other forms of mine laying was less organised. However mine action organisations note that mine laying for the purpose of denying people access to specific areas (area denial) was reportedly a low priority compared to the mining of roadways, both primary and secondary. One mine action NGO notes that the larger problem is UXO, which are widely scattered across certain areas and are of a very wide variety, having originated from a number of countries--China, the US, the Soviet Block, South Africa, Israel, and Eastern Europe.

Due to the history of mines in the country, their movement subsequent to their initial placement seems to be somewhat common, as reported by MAG. Mines and UXO are easily washed to new locations during the rains, and can be picked up by local inhabitants (and local 'deminers') and deposited elsewhere in rural areas so as to be rid of them, only to be encountered at a later date.

3.3 Socio-economic impact of contamination

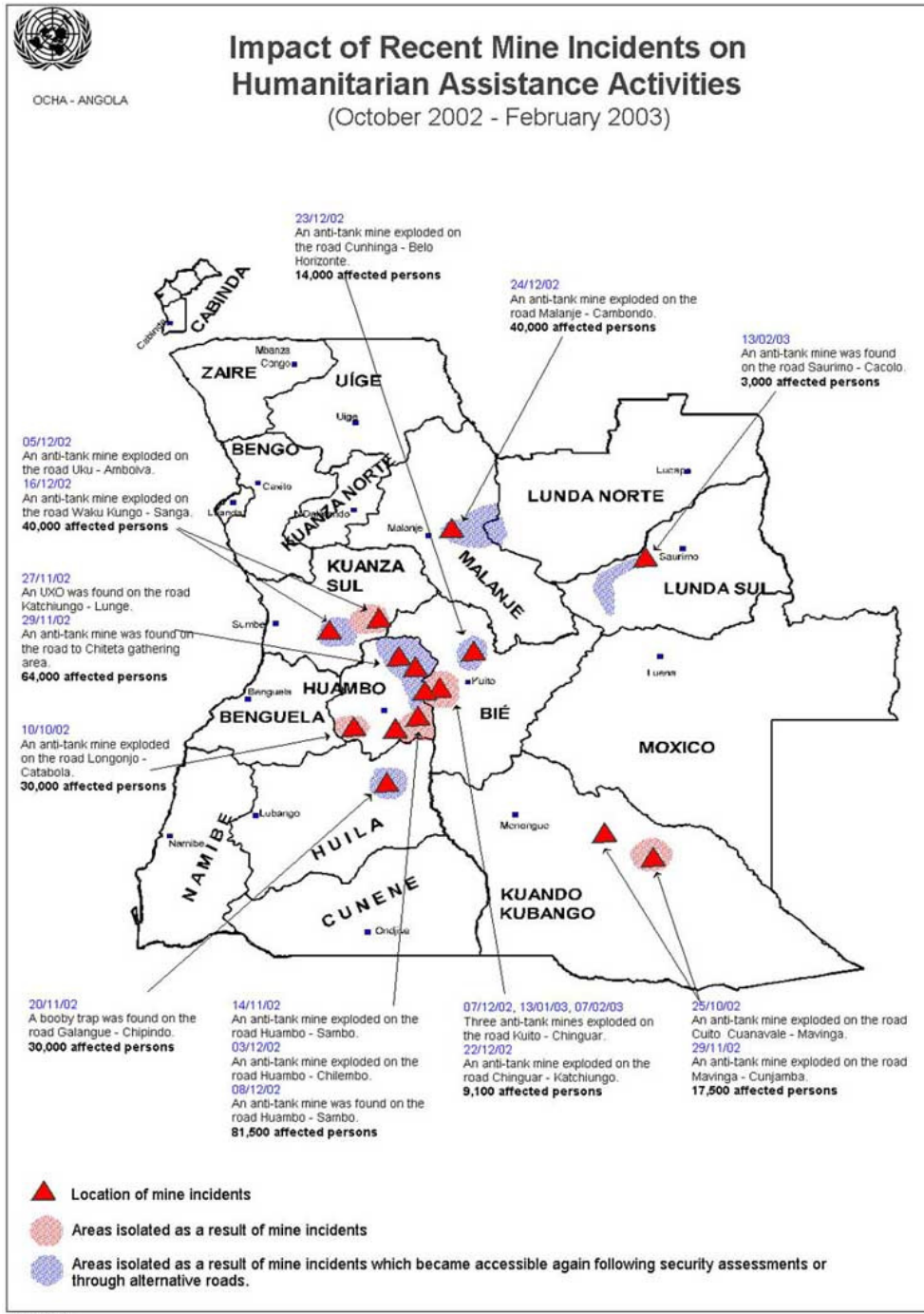
The World Bank's 2009 report on The Environmental and Social Management Framework noted that problems with land access in Angola are a primary impact of landmines in the country. The report noted that demined areas are mostly being used for residential and agricultural purposes, with farming sometimes beginning well before handover is complete. Mine action organisations in the country report that very often, people take their chances with contaminated areas, using them for farming and grazing of animals despite the presence of mines and UXO.

Landmines are a primary obstacle to the creation of the new Kavango Zambezi Transfrontier Conservation Area, which is set to become the world's largest game park, occupying the border area between Angola, Botswana, Namibia, Zambia, and Zimbabwe. Over 130,000 elephants are currently prevented from moving through the park from Botswana. Full designation of the park and elephant release into the wider area will be held up until the area is free from landmines, and mine clearance in the area is now an ongoing effort (*LCMM 2010*).

In many cases, new areas and roads are being reported as contaminated only as people move into vacant areas where there had been no prior information regarding contamination (LCMM 2010). This is due in part to the newly returning refugees from Zambia and the Democratic Republic of the Congo, as well as movements from overcrowded urban areas to rural locations. In addition with the expanding urban, peri-urban and community occupation of land in different parts of the country, there is new use of certain land that has long been unoccupied. In one case there was a reported anti-vehicle mine incident in a location where housing construction was underway in an area that was unoccupied for a lengthy period of time (LCMM 2010).

According to the 2007 LIS, roads blocked by landmines are a problem throughout the country, impacting Bie, Huambo, and Moxico provinces in particular. In this regard the clearance of secondary roads over the next four years is a reconstruction priority (LCMM 2010). During and immediately after the war, large portions of the country were rendered inaccessible or very difficult to access due to the mine/ERW problem along the roads, along with the destruction of bridges and other components of the transportation infrastructure. Figure 1 provides an example of the impact that even an individual mine has on the local population.

Figure 1 - Landmines and impacted areas/people as of Feb 2003



4. Mine Action Response to Land Rights Issues

4.1 Mine affected communities and land rights

A distinct problem in dealing with the intersection of mine affected communities and land rights is that these two topics align neatly with two different types of NGOs. Discussions with both mine action and land rights NGOs indicated that there is very little if any purposeful, planned interaction between the two groups. One example where there was interaction was between land rights NGO

Development Workshop and the Survey Action Center, an international mine action organisation for a project involving a joint 'community diagnostics' exercise, just after the end of the war. Mine action organisations in Angola typically link up with other NGOs at the local level and not centrally or as part of any planned approach. Mine action organisation work with other NGOs in specific project areas for follow-on development activities, usually in response to local needs and requests, as opposed to in response to a mandate from their respective headquarters. Some mine action organisations in Angola are freer to engage in such linkages than others. Halo, MAG, and NPA for example are more likely to engage in such linkages in the field on their own, than INAD or the many commercial demining organisations, who are often tasked to only survey and/or clear specific areas, and not conduct pre or post clearance assessments.

Refugee and IDP return to land and property abandoned due to the war was particularly affected by the presence of landmines. The UN indicated at the close of the war that only 30 percent of the rural areas of IDP return were considered suitable for resettlement by UN standards, in part due to mine/ERW contamination. While the Angolan government's legislation on resettlement after the war was based on the UN's Norms for Humanitarian Settlement, in practice IDPs were largely usually left on their own, which was highly problematic given the lack of information returnees had regarding which areas were mined.

The role of the state with regards to the mine action – land rights nexus is worth mentioning. First, local communities are aware of the relationship between demining and land grabbing. As a result, they typically to approach international humanitarian demining organisations such as NPA and MAG with their mine problems (instead of the state or commercial demining organisations) because they know that there is then little chance of the land being grabbed. NPA responds directly to such requests, as does MAG with a special 'quick reaction team'.

Second, an important land rights related effort by the Angolan government is the creation of rural and urban 'reserves' for resettlement of former IDPs and urban migrants. Because the state owns all land in the country according to statutory law, these reserves are established where the state believes they should be, and there can be conflicts with local communities who have longstanding or ancestral claims to such lands. Because these reserves are part of officially designated 'national reconstruction' priorities, they must therefore be demined even when there is no indication of the existence of mines or UXO. Community members often learn about the designation of the land as a reserve only when mine action organisations come to clear it. The communities therefore perceive mine action actors as part of the expropriation process. There are cases where land designated as reserves for resettlement are demined, and then after clearance either the land ends up being used for a purpose other than the stated resettlement, or remains idle for a long period of time. In such cases, mine action organisation wonder what the real situation is with the land, and government plans for it.

Third, some within INAD note that when they clear for the benefit of a local community, conflicts or other problematic land issues don't tend to arise. Others indicate that when there are land conflicts that they are aware of, it is usually between the owner and the current occupants, and the demining organisation somehow gets caught up in the conflict. In such a case then they feel they need to side with the owner if s/he has a title or other relevant document to the land. Normally when clearing community land, INAD interacts with the Soba first to delimit the area. Then after clearing the area it is the Soba's responsibility to deal with the land issues.

INAD also notes that there are a great many land conflicts in Angola but they are not clearly connected to mine action. This makes an important point, which is that land conflicts can be complex and multi-faceted, and because mine action organisations are not a clear party to a land conflict, or do not monitor disputes that may emerge in their wake, it can be difficult for mine action or land rights NGOs to be able to distinguish between land conflicts that are linked specifically to land mines or mine action. This can be especially the case when mine action organisations may have had a role in aggravating land disputes, releasing them from being 'frozen', or acted as an arm of the state to solidify the state's claim on lands, even inadvertently. In this regard some mine action NGOs note that the many 'reserves' used for resettlement are essentially lands seized by government, which INAD needs to then demine completely, thus acting to solidify the state's claim on such lands. The original occupants of such land are given a small set of 'take-it-or-leave-it' options to select from. These include very small sums for compensation, a plot of land elsewhere, or a house in the new resettlement scheme when these become available. Such options sometimes satisfies the local population, and sometimes not. When they do not satisfy the community being displaced, there is essentially no option for dispute resolution with the state and such conflicts do not end up in a court. For its part, CNIDAH notes that they are aware of government approaches to expropriate land for reserves and other purposes, and that the government to the extent possible wants to avoid conflict over land with local communities and so offers compensation (albeit poor) in good faith to local communities.

4.2 Mine action responses

Mine action in Angola does not respond directly and purposefully to land rights issues. While there are many land conflicts, along with land grabbing, tenure insecurity and a host of other land related problems, mine action by itself does not appear to be a direct cause, or a direct solution to these. Rather, mine action is part of a larger picture of government interaction with local communities and the land issues that emerge. Nonetheless mine action organisations in Angola can, and frequently do act inadvertently to either pre-empt post clearance land seizures, or to ensure that intended beneficiaries in fact do end up on land intended for them through clearing—with both facilitated by robust land release procedures as practiced most effectively by NPA and MAG.

NPA has piloted a 'task impact assessment' in Angola that is designed to assist in the selection of communities to ensure that mine clearance is followed by the effective use of cleared land (*GICHD 2008*). They also perform follow-up visits and post-clearance surveys with beneficiaries. NPA maintains that they would take the matter up with high levels of government and GICHD if they found that land they had cleared was grabbed from the intended beneficiaries and they have discussed their position with the government.

An important but under-appreciated positive aspect of mine action with regard to land rights issues is the inadvertent effects of both clearance and land release. Through the intensive interaction between mine action organisations and local communities during clearance, but particularly during land release surveys, it becomes widely known in government, the NGO community, and local and sometimes national civil society who will benefit from cleared land. This results in a 'forced transparency' which can deter land grabbing, particularly when post-clearance assessments take place six months or a year later, or if an NGO or donor follows up quickly with a local development project in the area.

Some NGO mine action organisations note that it is common for many more smallholders than the intended number of beneficiaries to end up actually using demined land. NPA reported that on one of their projects the number of intended beneficiaries was approximately 500, but a subsequent survey found close to 6000 people using the land. And while NPA took this as a sign of success in their mine action activities, they were unable to elaborate on any land rights issues associated with such an influx--most likely because they were not looking into such issues. But with such an influx, it is likely that significant land rights issues emerge.

INAD notes that by the time they arrive in an area they have been told to clear, if there was a land dispute it has already been resolved in some way. How satisfactorily it might have been resolved for the parties concerned is unknown. But INAD sees their role in this regard as being relatively small, while the government and other interests should sort out land issues prior to their arrival.

5. Conclusions: Mainstreaming land rights

There are several ways to mainstream land rights into mine action. However, it is important to note that mine action organisations cannot realistically be expected to directly and purposefully take on a large volume of land rights issues. They should build on the aspects of mine action that already have a positive effect on land rights. As noted above, the support to beneficiary land rights is strengthened by the substantial interaction between a mine action organisation and the local community. The array of material provided through delimitation and survey exercises can contribute to the tenure security of local communities when such exercises result in documentation provided to local communities. Such documentation provides clear evidence for occupation and use of lands. While it does not constitute legal title, it does nevertheless carry weight, particularly when it is attached to an international NGO demining organisation, and their sometimes perceived role as advocate for local communities. A positive contribution toward mainstreaming land rights support to local communities would be to enhance community interaction and the provision of handover documentation to beneficiaries following survey and clearance. It is broadly known in the land rights community that a very wide variety of documentary substantiation other than land-specific documents can and does provide increased tenure security for smallholder communities (*e.g., Magana 2003; McAuslan 2003; Okoth-Ogendo 2000; Toulmin and Quan 2000*). Most of this documentation is not derived for purposes of land rights, but is nevertheless highly relevant and widely used to support important aspects of land tenure, especially in socio-political settings where government land institutions, and fairness and rights protection are dysfunctional or problematic, as they are in Angola. Building on this aspect of land release would contribute to tenure security and protection of rights. Including land rights items in the surveys done for the purposes of demining would further mainstream this capacity of mine action.

Links with non-mine action NGOs and donors is an opportunity to mainstream land rights into mine action. These do not necessarily need to be land rights NGOs, but any NGO that has a presence in an area would be valuable in terms of engaging mine affected communities on land that has been released to them. This said, NGOs who do focus on land rights are valuable in providing specific advice to the mine action community, to local communities, and to government in terms of how to increase tenure security and defend rights to demined land. An important first step in this regard would be for mine action organisations to simply have a list of land rights NGOs and other NGOs whom they can call on for assistance.

An important aspect of communication regarding mine action is to let the donor community in-country know that specific areas have been cleared. Donors can often shy away from contaminated areas, preferring instead to pursue projects in uncontaminated areas where they are more apt to see success in their efforts. Notifying donors that areas are newly cleared would at a minimum discourage them from avoiding areas that were known to contain mines. Development projects in newly cleared areas can provide the needed presence that can support land rights of local communities, and discourage land grabbing. Another aspect of communication that would be worth considering, is for mine clearance NGOs to widely disseminate information about intended beneficiaries (to government, donors, NGOs) and move away from a non transparent situation that can facilitate land grabbing.

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