



Landmines and Land Rights in Yemen

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November 2010

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1 INTRODUCTION

Yemen is located on the southern tip of the Arabian Peninsula, with a population of approximately twenty-five million people, more than the rest of the Arabian Peninsula combined. It is the poorest nation in the Arab world, and ranks 140th of 182 countries in the 2009 Human Development Index. Infant mortality rates are at 8.5 - 9 per 100 live births and maternal mortality rates are at 1.4 per 100 births, ranking among the world's highest. Over 70 per cent of Yemen's rapidly growing population live in rural areas where agricultural work is the predominant occupation. The bulk of the population is concentrated in the highlands, a mountainous area above 1,500 metres. Yemen currently faces an economic crisis as oil exports diminish and Yemen's capacity to generate foreign exchange is failing. International assistance to Yemen is increasing, and in an attempt to address burgeoning food security issues, is also subtly shifting from development to humanitarian assistance.

Politically, the framework is stable in that the president has been in power for thirty-two years, and many of the key figures in government and the regime are very well-established. However, it also faces a range of challenges to power, which generates instability. These include Zaydi secessionist factions in the north (the Saadah conflict), Al Qaeda in the centre of the country, and separatists in the south of the country. The needs of a growing population alongside a diminishing economic base exacerbate this.

Yemen's contamination problem regarding landmines and Explosive Remnants of War (ERW) stems from a series of internal conflicts that have been ongoing since 1962. The great majority of the formal minefields were laid along the border of the Yemen Arab Republic (YAR) and the Peoples Democratic Republic of Yemen (PDRY) which are also respectively known as North and South Yemen, before 1990 when the two were united. However, both anti-personnel and anti-tank mines were also laid in small numbers during the insurgent wars. These occurred in PDRY from 1965 to 1967, then in YAR between 1970 and 1983, and again in the secession war of 1994, subsequent to the unification of the country. More recently, there have been unsubstantiated reports about the use of mines in the intermittent six-year Saada conflict which has been running intermittently since June 2004 to present.

There was no aerial distribution of mines; all were laid by hand, without markings or fencing and in no specific pattern. There are also several areas that contain deep-buried mines in sand dunes and wadi floors. In 2008, Yemen reported that approximately 213 km² is contaminated, with approximately 12 km² requiring full clearance.¹ The remaining area will likely be cancelled or reduced through technical survey.

2 MAIN LAND RIGHTS ISSUES

Alongside tribalism and tribal power in Yemen, land and land tenure are probably the most contentious issues, which cause the vast majority of internal conflicts. Rural land issues tend to mean 'land and water' since farmland on its own does not hold much value. Surveys in Yemen consistently show that land issues make up 75 to 80 per cent of the root causes of conflict. Poverty, combined with increasing land stress, ie, too many people and too little land, provide the context for these disputes, which are then exacerbated by the internal armed struggles occurring throughout much of the country.

¹ Analysis of the request submitted by Yemen for an extension of the deadline for completing the destruction of anti-personnel mine sin accordance with Article 5 of the Convention, 9th Meeting of States Parties, 18 November 2008, http://www.apminebanconvention.org/fileadmin/pdf/mbc/clearing-mined-areas/art5_extensions/countries/9MSP-extension-request-analysis-Yemen-en.pdf; Landmine Monitor 2009, http://www.the-monitor.org/index.php/publications/display?act=submit&pgs_year=2009&pgs_type=lm&pgs_report=yemen

Current estimates based on formal crime statistics suggest that there are approximately four thousand murders per year.

No effective land registry system in place

Although the establishment of a land registry system is a common feature in many of Yemen's development strategies and plans, it is not yet a reality. Despite there being a new land-law under discussion in parliament since 2006, there is currently no effective land-registry providing a national service with complete authority, and no formal 'technical' registration system or national land authority that performs cadastral² surveys of agricultural land.

There is a registration system that pertains to urban land, but this is effectively a private service that landowners pay for. This amount, representing over a year's gross income, is beyond the means of a rural farmer.

The official fee to register a plot is YR30,000 (\$130), and ordinary Sana'ani³ house owners can pay up to YR100,000 (\$450) in bribes and facilitation payments. However, even with a payment, the paperwork is highly unlikely to be effective because of corruption.

2.1 Ownership

Approximately one per cent of the country or about 1.6m hectares is cultivable. There are four types of ownership of farmland in Yemen. These are known as communal land (*al bilad*), private land (*milk khaas*), state land (*aradi al-dawla*) and religious endowment lands (*waqf* or *aradi waqf*).

Communal land, usually grazing land, is by far the most prevalent form of land tenure. It has enormous significance in rural livelihoods, despite being the least productive and valuable land per unit area.

Waqf land is owned by the Mosque, though management of the land usually remains with the donor family. *Waqf* makes up 15 – 20 per cent of cultivated land in some communities. It is important in that it is usually sharecropped, which means that tenants are permitted to use the land in return for a share of the crop produced. The tenants on *Waqf* land generally hold better terms, such as a bigger share of the crop or more stable rights, than tenants do on private land, which is land owned by individuals. In consultation with the community, the Mosque is responsible for distributing produce to the poor or may market it and use the revenue to pay for community assets.

In the context of mine action, the 2000 Landmine Impact Survey (LIS) found that 89 per cent of communities in Yemen reported having access to communal grazing land blocked because of Explosive Remnants of War (ERW). This compares with 25 per cent reporting blocked access to rain-fed farms and six per cent reporting problems in accessing irrigated farms.

2.2 Land rights / constitutional law

Because land is such a key and contentious issue, Yemenis are very well aware of their traditional rights. However, they are far less aware of their constitutional and legal rights.

The 1994 Yemeni constitution outlines the following in relation to land ownership and rights:

Article (6) The Republic of Yemen confirms its adherence to the UN Charter, the International Declaration of Human Rights, the Charter of the Arab League, and dogma of international law which are generally recognised.

² *Surveying* (of a map or survey) showing or including boundaries, property lines, etc

³ Residents of Sana'a, the capital city.

Chapter II: The Economic Foundations

Article (7) The national economy is based on freedom of economic activity which benefits both the individual and society and which enhances national independence. The national economy should be founded on the following principles:

- a. Islamic social justice in economic relations which aims at developing and promoting production, achieving social integration and equilibrium, providing equal opportunities and promoting higher living standards in society.
- b. Lawful competition between the public, private, cooperative and mixed economic sectors, and realisation of equal and just treatment in all sectors.
- c. Protection and respect for private ownership, which cannot be confiscated unless necessary in the public interest, in lieu of fair consideration and in accordance with law.

Article (19) Public funds and properties are inviolable. The state and all members of society shall maintain and protect them. Any attack on or misuse of these, shall be considered sabotage and an aggression on society, and those who violate their sacrosanctity shall be punished in accordance with the law.

Article (20) General confiscation of property is prohibited. Private confiscation is not allowed without a legal judgment.

2.3 Status of women

Despite pressure from women's groups, backed by bodies such as the International Labour Organisation (ILO), national legislation contains serious gender inequalities that prevent rural female agricultural workers from accessing resources and the means to develop their own businesses.

Existing labour laws prohibit gender discrimination in wages, salaries, promotion and working conditions. Yemen's 1992 personal status law limits the civil liberties of women, whose freedom of movement is dependent on permission from their husbands or guardians. This restricts their freedom of association, their ability to access markets, to buy and sell produce, to access banks or credit, to register businesses or to engage in self-employment. In addition, under Yemeni inheritance law, and following the Quranic prescription, a widow inherits one eighth of her husband's assets, while female heirs inherit about half of the land assets that their male siblings inherit. These laws constrain women's access to land, frequently leaving widows and daughters landless. The laws persist despite their plain contradiction with the constitution.

In many tribal areas, and due to a combination of land stress and the domination of tribal law (which operates as an interpretation of Quranic law or *Sharia*), women do not inherit any land at all. Their inheritance is often overruled by men in their immediate family in order to consolidate land holdings in a direct genealogical line. Female heirs are given 'compensation' in place of land.

The fact that traditional livelihood systems are coming under increasing pressure due to several factors, including land and water supply stress, has meant that women are becoming increasingly marginalised.

Women and education

In the context of urban areas, women take the majority of places in higher education. However, this is a reflection of a significant urban/rural divide in gender equality, and it is not reflected in the labour market. In fact, overall Yemen has one of the largest gaps of primary school attendance rates between girls and boys in the world. The result is that most rural women are illiterate. Nearly 90 per cent of women work in the agricultural sector, the vast majority as informal and unpaid workers.

Many rural women producers are unable to access legal support that could guarantee them legal protection, either because they are either unaware of their legal rights or do know them but choose not to claim them because of social pressure and shame.

2.4 Equity

The rural labour economy is rife with complex class structures that hold in place social and economic inequality. The broadest division is between **tribal** and **non-tribal**, and there are two classes above the tribes.

Non-tribal people, known as '*Ryot*' include the *Saada* and *Mashayakh*:

- The *Saada* are aristocrats, and descendants of the tribe of Prophet Mohammed, the Hashemites.
 - The *Mashayakh* are religious leaders who form a cadre of judges (*Hakim*) and theologians.
- Both classes are considered literate, and above tribal or warrior behaviour, so neither group can carry weapons or engage in revenge.

Other **non-tribal** people whose status is above the tribes:

- Artisans, such as blacksmiths, weavers and carpenters
- '*Muzzayim*' - a specific class between slave and low class artisans, such as hairdressers
- '*Mohamesheen*' – Though not quite slaves, these are rural poor who receive refuge in return for work on a day-rate basis, or as sharecropping farmers
- '*Abid*' - Slaves whose families still come under the protection of, and so 'belong' to tribal people or *Saadaah*. Urban slaves are called *Akhdam*. With families originating in Africa, *Abid* are typically African-looking. Their features and their names work against their mobility, both socially and physically.

Tribal people, known as '*Qabayel*' include:

- '*Sheikh*' - a tribal class that have an elevated level of education
- '*Faqih*' - islamic '*qadi*' or judge and interpreter of the Holy Qu'ran
- Landowners
- Landless *farm* workers known as '*Hareth*' or '*Batuqu'ranl*'.

Despite the social equity of *waqf* and other mechanisms, approximately 30 per cent of cultivated land in Yemen is sharecropped by landowning farmers or landless sharecroppers.

2.5 Tribal law

Arable land in Yemen is concentrated above 1,500 m altitude, based largely on rain-fed agriculture, and much of it is terraced. The distribution of productive land is very different between former North Yemen (YAR) and former South Yemen (PDRY). For example, for much of the former YAR, there is an unbroken historical tradition of land-titling, whereas in the former PDRY, land was nationalised under the 17 year socialist regime (1972 – 1989). This meant that the tribal hierarchies were dismantled and many of the records of traditional landowners were destroyed.

The bulk of arable land in the former PDRY lies on *wadi*⁴ floors and along coastal plains. It is made up of complex irrigation systems, which take their water supplies from seasonal flooding/spate irrigation⁵, or via pumps. Spate-irrigated land was nationalised and developed under formal irrigation schemes by the socialists before being returned to private ownership after unification. Disputes over who the rightful owners remain unresolved even after twenty years, which has resulted in the formal irrigation systems falling into disrepair. Although the formal irrigation schemes are now defunct, the traditional spate irrigated schemes continue to function under stable patterns of land ownership.

⁴ A Wadi is a streambed or valley

⁵ Spate irrigation refers to a special form of irrigation which involves the use of surface water. Also known as floodwater harvesting.

The complexity of land tenure disputes in former PDRY is also a significant hindrance to development.

Registration systems

The only existing registration system pertains to urban land and there is no formal ‘technical’ registration system or national land authority performing cadastral⁶ surveys of agricultural land.

The ownership of communal land, defined by tribal borders, is agreed by tribes within the framework of an informal but very strong legal system known as ‘*Urf*’. *Urf* is regulated by a *Faqih*, who is often a religious leader such as the village *imam*. Traditionally, he holds his position based on his ability to read the Holy Quran. He records and maintains records of ownership, applying *Sharia* law in cases of dispute. *Urf* is the most prevalent system of land tenure in the rural areas, where the majority of mine and UXO contamination are located.

Rural villagers hold handwritten records (often very old, yet very adequate) that describe family ownership of land. They come in two forms:

a record of intra-familial inheritance or ‘*fasl*,’ forms the basis of most land holdings
land titles or ‘*basirah*,’ issued by the *Amin* or *Shaykh*.

Disputes over land

The stability of land-holdings depends on farming systems and land divisions. Where communities farm on the plateaux or lowlands, which are at the same altitude, there is minimal exchange of land. This is because here, there is no great advantage to farming in different places, so the focus is on the consolidation of land under the relevant families. Disputes do typically arise over the apportioning of water rights however, such as over how much water is to be diverted from rivers, or how close one borehole can be placed to another.

Where farms are spread out over terraces on steep mountainsides, crops must be planted in fields at different altitudes in order to ensure the viability of different crops. For example, coffee needs to grow at over 1,800 m and maize below 1,300 m. When rainfall is uncertain, farmers try to balance risk by operating fields at four or five different altitudes. They may then exchange land in an attempt for greater food security, and run fields up to 800 vertical metres apart or more. Land exchanged in this way may or may not be subject to formal written agreements.

In the early 1990s, the national government of the new Republic of Yemen took steps to resolve land-ownership problems in the former PDRY, and paid compensation to landowners who had lost land. Despite this, many land-claims and disputes remain, clogging courts with a backlog of claims that were submitted as many as two decades ago. Land issues were key in generating the resurgence of a southern political movement in 2006, which is still a significant challenge to the national government.

2.6 Political economy of land

Migration

Land-stress has meant that much of Yemen’s labour force has traditionally migrated to seek work elsewhere. Hadhrami people, who come from the Hadhramaut region of Yemen, have a long historical tradition of migration throughout the Indian Ocean. Communities from Lahej, Abyan and Taizz equally have a history of migration via the coal port of Aden which lies on a major world trading route through the Suez Canal. This route has been traditionally used by people going to the

⁶ *Surveying* (of a map or survey) showing or including boundaries, property lines, etc.

United Kingdom or the northern Midwest of the United States of America to work in heavy industry. Yemenis from the former YAR have traditionally migrated in large numbers to oil-rich neighbouring states, mainly the Kingdom of Saudi Arabia. Migrant labour reached its peak during the oil boom of the 1970s. During this period, money sent from outside the country supplied the funding for education and urbanisation. This resulted in the stress on land easing, thereby reducing conflict.

In 1991, Yemen abstained from voting in the UN Security Council to sanction foreign troops to liberate Kuwait from Iraqi control. This resulted in the expulsion of nearly one million Yemeni migrants from neighbouring states, with catastrophic effects on Yemen's economy.

Oil

Since 1987, Yemen has exported oil. In the early 1990s, this meant that the balance of power shifted radically from a weak and limited state authority and a relatively strong but decentralised population, to a relatively strong state structure and a much poorer population. The state was able to expand its control and influence over areas of Yemen that had previously been almost purely tribal. This shift in the political economy coincided with a major shift in patterns of cropping.

Farming Systems

Because of such limited soil and rainfall regimes, the agrarian model of land use in Yemen was already saturated by the early 1960s, when Yemen's population was around one sixth of what it is now. Despite this, rural economies were largely self-sufficient until the mid 1980s. However, Yemen has imported food since the mid-1960s to support the urban population.

Yemeni farming systems have also undergone an immense shift in emphasis in the last quarter of a century; from being rain-fed and spate-irrigated to being irrigated. Irrigation now makes up 80 per cent of total water use in Yemen. This shift has been driven by a number of factors:

Remittances from migrant labour that peaked in the late 1970s, that drove the importation of drilling rigs to rapidly drill boreholes and fit pumps.

The oil revenues enabled the government to subsidise basic grains, lowering the viability of much rain-fed farming. Oil revenue from 1988 onwards also allowed the government to subsidise diesel prices which propelled production-irrigated land via the use of machinery. However the method was followed largely inefficiently and with no regard for sustainable water use.

The relative wealth and changing lifestyles of an increasingly urban population in the 1980s that drove a market for *Qat*.⁷ It rapidly became the most profitable crop by far, replacing coffee and most other cash crops, with 70 to 75 per cent of irrigation dedicated to *Qat* production.

Under this distorted economy, the agricultural labour economy shifted from a subsistence model where their lands were rain-fed, towards a cash-crop model where their lands were watered by pumped irrigation systems. This way of farming made for greater returns but placed a great reliance on unsustainable subsidies.

Therefore, while land-stress is nothing new, the current situation for people trying to make a purely rural living is now harder than ever because of the collapse of both the remittance and state patronage economic models. Today, large areas of abandoned terraces show the decline in mountain-terraced agriculture. The paradox of a growing population and a decline in arable land is answered by the cost of labour and the very marginal returns of rain-fed cropping. Yemen now imports 95 per cent of its staple foods.

⁷ Also known as *Catha edulis*, *Qat* is a plant with leaves that is used for chewing. When the juices are swallowed it causes a very mild amphetamine-like effect.

2.7 Land conflict

Conflict around land is demonstrably correlated with land value. The more valuable the land, the more potential it has for generating conflict. It therefore follows that mine clearance has the potential to exacerbate existing conflicts or generate new ones.

The pattern of land tenure conflict falls broadly into two areas; rural and urban. There are also two types of conflict; those involving internal or local actors, and those involving external actors.

Rural

In rural areas, villagers and tribesmen frequently clash over land, typically over contested ownership subsequent to heredity, such as disputed claims of ownership of land within families, or over more marginal pieces of land in tribal borderlands. Because so many rain-fed terraces on the upper slopes of the mountains have been abandoned, it places an immense stress on the more productive areas in the land below.

Marginal land has minimal value outside of providing a surface to collect rainfall. However the ability to drill a borehole and subsequently irrigate the land (mainly for *Qat* production) has raised its potential value.

Rural land conflicts also occur over the right to work. For example, an oil company may run operations on land with almost no agricultural value. If tribesmen can assert ownership of the land, however marginal, they will have the right to provide goods and services to the company operating on it. Because oil companies pay well for their goods and services, tribesmen frequently fight bitterly over the right to work based on ownership of land.

The vulnerability of land to conflict over ownership may correlate with land use. A field is a marked defined area and it is worked by owner or share-cropper. Therefore ownership of a field is both known and can be defended based on visible physical boundaries. '*Usufruct*' (rights of use) for grazing land is also known, but tends to have fewer physical boundaries. Grazing land is typically owned or controlled by communities within which there is a hierarchy that can be exploited.

Urban

Urban land conflicts have occurred primarily as a result of rapid urbanisation, unclear land titling (lack of formal land registration) and as a result of harsh political realities, ie, 'the spoils of war'. In this sense, and particularly in Aden, Lahj, Abyan and Hadramaut in the aftermath of the 1994 civil war, land that had previously been held by the state was taken by the military victors or their commercial agents. Much of this land has subsequently been developed and used for productive commercial ventures.

However, the original (pre 1972) owners of the land still claim rights of ownership, as evidenced in a series of high profile court cases that have been running since 1996.

3 MINE/ERW CONTAMINATION AND THE MINE ACTION RESPONSE

Mine/ERW Contamination

The national Landmine Impact Survey (LIS), completed in July 2000 (prior to the Saada conflict), identified nearly 600 mine or UXO-affected communities in 19 out of the 21 governorates. Overall there is 12km² of contaminated land. Of the 4,904 accidents recorded by the LIS between 1990 and 2000, 2,560 cases resulted with the person being killed and 2,344 with the person being injured.

Formal records currently suggest that there are 20 – 25 mine casualties a year, but informally, this may be higher due to the relative lack of access to and communication with people in rural areas.

Typically, the main victims are herders, who take goats and sheep to graze in areas where the risk is unknown. Farmers are the second most frequent group of victims. They, along with rural people are often fearful to enter fields or use tracks that they suspect of being mined, which impacts on their ability to work. Also, despite targeted Mine Risk Education (MRE), tampering with mines/Unexploded Ordnance (UXO) also results in a high number of deaths and injuries.

Mine Action Response

The National Mine Action Committee (NMAC) was established in June 1998 through Prime Ministerial decree, to formulate policy, allocate resources, and develop a national mine action strategy. NMAC, chaired by the Minister of State (a member of the cabinet), brings together representatives of seven concerned ministries. The Yemen Executive Mine Action Committee (YEMAC) was then established in the capital Sana'a in January 1999 as NMAC's implementing body. YEMAC is responsible for coordinating all mine action activities in the country and is the only mine/ERW clearance operator in Yemen. A Regional Executive Mine Action Branch (REMAB) and a National Training Centre in Aden were also set up, and another REMAB was added in March 2004 in Mukalla (Hadramaut governorate). REMABs are responsible for field implementation of the national mine action plan.

In May 1999, the United Nations Development Programme (UNDP) began a programme to support YEMAC. In October 2003, the programme moved from direct (UN) execution to national execution. Since the beginning of 2007, UNDP has provided support for resource mobilisation (including procurements and recruitment services), and project quality assurance (QA). Support from the Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) enabled the construction of a centre for mine detection dogs (MDD) in Sana'a and training of MDD handlers.

4 MINE ACTION RESPONSE TO LAND RIGHTS ISSUES

Conflict linked with Mine Action

While acknowledging that rural land conflicts exist, YEMAC leave local communities to resolve them. *"It is their problem - and they know how to resolve it"* is their common response to this subject. Even for urban conflicts, including those where there is a prolonged legal dispute over the ownership of land, YEMAC operates regardless.

In the context of mine action and land rights, contaminated land falls into 4 categories of conflict:

No conflicts before or after mine action

Conflicts that exist in the community *before* area reduction/clearance

Conflicts that arise in the community *during* area reduction/clearance as a direct result of the clearance (eg, on the basis of the perceived high value of the previously contaminated land)

Conflicts that arise in the community *after* area reduction/clearance (again on the basis of perceived high value of the previously contaminated land)

Conflict exists already prior to the intervention of mine clearance in the second case. However, in the last two cases, it is the humanitarian actions of the mine clearance actor that act as a catalyst for conflict over contaminated land.

While these truths are self-evident, YEMAC's operating principles are universal and humanitarian.

Land is cleared based on:

the risk it poses to people – based on victim statistics

the priorities of the local communities

the value of the land to the local authority

How land clearance works

Firstly, YEMAC conducts a formal assessment of risks and values. On setting up, the teams spend time explaining to the community about YEMAC. Usually, on seeing YEMAC vehicles, their lack of weapons and the manner in which they work, the community is usually quickly convinced that is the teams are there to help them regain their land.

The mine clearance teams then proceed to work in a typical sequence of area reduction and clearance tasks. They start with the land that poses the highest risk or which has the highest value to the community. Land is not demarcated according to land owner, but instead each minefield/contaminated area is typically given a number. The governorate and village name is recorded but not the owner's name. If the village is 'of one family', the village name is synonymous with the family name. Individual owners are never named.

Handing back process

YEMAC's process for handing land back to the communities involves three elements:

A formal handover process with key stakeholders and the community for each clearance task/minefield

A final phase of MRE, including community awareness-raising about residual mines/UXO outside the cleared area

A final handover process for the cluster of clearance tasks, with key stakeholders including the Governor or representative from the Governor's office.

Although this process works in accordance with the International Mine Action Standards (IMAS) and Yemeni law, there may be an inherent flaw in this system. Usually the 'key stakeholders' involved in the handover process are made up of one or more leaders/sheiks of the community.

Examples of conflicts

This approach can have repercussions for YEMAC's operations. For example:

In Hareeb, in the Governorate of Mareb, YEMAC had to withdraw from a task in which they were checking land in advance of operations to run a seismic survey for an oil company. The tribes of Hareeb – the Murad, Abida, Shareef, etc... have a long and very well-known history of militancy toward external actors and in this instance YEMAC were seen as agents of a Western oil company. The area of the seismic survey included lands that are frequently in dispute - where tribesmen claim land rights with the aim of establishing primacy of the right to deliver goods and services to the oil company. Because YEMAC were seen as agents of the Western oil company, tribesmen of the Murad tribe stole vehicles from YEMAC and refused to give them back even after negotiations with external (3rd party) mediators.

The town of Ad'Dalae, in the Governorate of Ad'Dalae, sits on the old North South border. It is poor but land values are high because of its strategic position between Sana'a and Aden. Since 2006, there has been a long-running and bitter conflict over land. The overall level of insecurity meant that YEMAC had to withdraw from the area for its own safety.

Along one of the main roads running north from Aden into Lahej, the land is considered valuable and important, both because of the location and because it runs through the centre of a significant source of fresh water. Despite written records and Presidential agreements, the various land committees set up by the Governors of Aden, Lahej and Abyan have refused to actually sign over the land to the tribal owners. Most of the land has been bought for reputedly low prices by people that include Yemen's most significant commercial families. Therefore although YEMAC has cleared these minefields, the land has not delivered equal benefits to the intended beneficiaries; the tribal owners.

How communities perceive YEMAC

Land right issues are a focus of both political activity and some human rights organisations, although there are not many organisations in Yemen that work on this. This is because the issue is highly politicised compared to women's rights for example, or slavery or child labour, and is seen as highly contentious and difficult to address. While the issues of arbitrary detention and freedom of expression are linked to democratisation and the donor agendas, the overriding issue of land rights is seen as highly contentious and difficult to address.

YEMAC is sometimes mistakenly seen as a quasi-military force, which can give a negative impression as the military is seen as the primary purchaser of government or private land. This impression is wrong because nearly all YEMAC staff are either civilian or have been fully seconded from the military and retain no formal ties to it. In the past, the military and private sector actors have put pressure on YEMAC to clear mines and UXO in areas that are of personal interest to them, which YEMAC refused to do. The operating principles of YEMAC are wholly humanitarian, for example in the current delicate dynamic of the Saada war, YEMAC has remained impartial, examining tasks only on a humanitarian basis.

The major donors to mine action are well aware of the prevalence of land conflict and land stress in tribal areas, and the politically contentious land in the south.

Land-titling remains a concern and was highlighted in the World Bank's Country Assistance Strategy (CAS) and in the recent 'ten point plan' put forward by the Yemeni Ministry of Finance. The World Bank's 2006 CAS states:

As a critical input into all economic activities (rural and urban), land allocation and titling remains a major challenge for the Government where little progress has been made in the recent past. Moreover, a significant proportion of court cases involve land-related disputes which stem from an inefficient public land administration system and weak land titling and registration systems. Over the medium-term, reforms will be needed to: strengthen and clarify the legal and regulatory framework concerning land related issues; streamline and rationalize the roles and mandates of institutions dealing with public land management; and provide an operational framework for strengthening land titling and registration through a proposed series of pilot activities intended to improve the land registration capture rate in the pilot areas.

Despite this, the level of leverage that can be exerted by donors to push for land tenure reform is not strong.

5 CONCLUSIONS

Conflict

Conflict over land is directly linked to land value. The more valuable the land, the more potential it has to generate conflict. One core problem is the absence of an effective national land registry that operates a service at a cost that is accessible to ordinary people. The only formal systems for registering land exist for urban areas. Beyond the formal state structures, tribal systems are generally very robust and reliable, but the parallel systems of tribal land tenure and the state's insistence on an open market can come into conflict.

State systems of registering land can be corrupt, and commercial ventures, many of them working with state sanction, try to reduce costs by achieving ownership or control of land through the most advantageous means. This can mean buying the land at very low prices from those who have inherited it via tribal concepts of ownership for example, then generating new land titles and selling them on. Typically, tribes try to force commercial interests to comply with tribal concepts of ownership and raise land values to a mutually acceptable market level.

The role of YEMAC in land disputes

YEMAC is limited in addressing the huge scale, complexity and politics of land disputes and instead aims to work within their mandate to remove the threat of mines and act within the law. The organisation has followed a policy of avoiding land conflict and has instead focused on addressing the humanitarian and strategic issues of the removal of mines/ERW. This policy is working, and in the context of Yemen, is wholly understandable and practicable.

YEMAC must operate within the framework of the state, which means releasing land that has been cleared to councils who are then accountable to local people. However, even if this is not acknowledged in their policies and procedures, YEMAC also has to operate within the context of tribal law, which dictates the norms and cultural implications of conduct in the field in a tribal context.

Land rights, land conflicts and a keen awareness of land ownership is a major part of Yemeni rural life. This is a highly contentious issue and the people are well-armed with small arms and light weapons. Therefore the reality is that beyond policy, YEMAC has no choice in whether or not to consider land rights in its dealings with rural communities. However they have remained steadfastly impartial and have navigated through many difficult situations with great integrity and skill. They have worked to gently facilitate or encourage dialogue to resolve issues and have not worked directly on the issue of land-conflict.

The current shift by donors to look at issues around outcomes and impact places additional responsibilities on YEMAC. The quality of outcome is closely linked to livelihoods and equity achieved through the mine action process. A significant portion of this involves land ownership.

While it is recognised that YEMAC cannot address issues of land ownership or become an active participant in resolving land conflicts, the usual path is to try to link mine action actors to legal support mechanisms or human rights organisations. However, in Yemen there are very few land rights actors in the sense of active NGOs or human rights organisations. The annual US State Department reports clearly show that the overall situation for human rights in Yemen remains very tenuous and that land is a highly politicised issue.

Regarding land tenure and mine action, the tribes and tribal organisations are very strong in the north, and political actors are quite strong in the south. They are highly capable of looking after their interests and of coordinating with YEMAC. Tribes have formal arrangements for dealing with conflict and mediators are paid for their services in settling disputes between families and communities. YEMAC understands these tribal processes. While there is no standardisation and the quality of the outcomes is varied, there is a widely understood set of precedents and strategies in place to manage conflict.

Selling mine-cleared land

If land that was previously used for very marginal agriculture is cleared of mines/ERW and then subsequently sold for well below market value, the outcome can be viewed two ways:

- a) The commercial concern is of national importance in the development of a national market and framework. Therefore, under the circumstances it is wholly proper to see the commercial organisation establish a base, as it means it is working towards the creation of a modern state.
- b) The farmers have been duped into selling their land below market value and have lost a part of their livelihood to a large commercial corporation. As a result, disparity and social inequity has increased, which is dysfunctional in the development of the state.

There is of course a middle path to be developed between the two extremes outlined above. There is plenty of scope for reconciling interests and achieving mutual benefit.

Possible solution

Under ideal circumstances, and assuming the land that is mined is situated in a remote area, and so posing no significant threat to life, perhaps the land should not be cleared under donor funding. This would mean that the threat posed by mines/ERW would deter investment while the mine action actors, or another such linked organisation, could educate local people about the potential value of their land and form land management committees to demarcate land ownership and land titles. This however would place a huge burden on the mine action organisation, which will no longer be seen as impartial by either side.

YEMAC's staff are fully aware of the parameters that exist in their work. However, what they may benefit from is a vision of other models and a level of specific support and encouragement to formalise some of the work they already do.

6 RECOMMENDATIONS

Strengthen land registration facilities

It should be simple to fund Geographical Information Systems (GIS) and cartographic labs and develop reasonably robust systems. Land titles are meaningless unless there is an effective judicial process to arbitrate in disputes and this judicial process is backed by the supreme authority. In Yemen however, this is highly unlikely.

Strengthen human rights NGOs working specifically on land rights issues

Although it is possible to fund the activities of human rights NGOs in Yemen, these groups occupy very restricted space politically. The US State Department, Human Rights Watch, Amnesty International and others have found that it is quite hard to develop effective civil society actors. It has been possible to develop skills at grassroots level, and to strengthen legal access, but the real levels of traction achieved when faced with powerful interests are minimal.

Strengthen legal access mechanisms – especially in key rural areas

It has been argued that recourse to the law can only be effective if the law is built from the ground up - and not the other way round. The links with land law are obvious, since the social contract of traditional land law should be the basis for formal law. However this approach requires a given level of literacy, and above all the national government should agree. In Yemen, the bond between government and the population is weak or simply non-existent.

Strengthen YEMAC to work with confidence and inclusion

This the most cost-effective option for donors. YEMAC has the capacity to work effectively in situations where there are complex land issues involved, and has been successful because it has focused on a simple humanitarian policy. Where appropriate, it has addressed land issues through careful negotiation at village level.

However, a structured debate around the potential to include land conflict resolution issues in YEMAC's mandate, as agreed by donors and the Mine Action Committee, could be useful.

ANNEX 1 INTERVIEWEES**ADRA 18/7/10**

Becky Begraff – Acting Director
 Farah Mahyoub – Finance Manager
 Tel 01 260529 mobile 734686001
 Farah.mayoub@adrayemen.org

ADRA had a tribal conflict programme that ran from 2002 - 2006 and the intellectual property / memory of that programme are a foundation for the following programmes.

Islamic Relief 19/7/01

Abdulaziz Saeed – Head of programmes
 Tel 01 418596 / mobile 777917499
Abdulaziz.saeed@iryemen.org

IR are a leading INGO in Saada, the subject of Saada was discussed with a view to integrating some elements into the conclusions / recommendations.

The Future Movement 17/7/10

Mohsein Al-Amoudi. Chair,
 Journalist, publisher and activist.
 Mobile 711130711
 E-mail angalh@hotmail.com

A competent overview of the Southern movement and political context from a southern journalist.

UNDP 18/7/10 (by phone)

Fuad Ali – Programme Director
 Mobile 712222330
 E-mail fuad.ali@undp.org

UNDP have the lead in mine action funding and early recovery for Saada.

Mine Awareness Association / Save the Children 19/7/10

Aisha Saeed (Chair of the MAA and author of the LM)
 Mobile 711193321
 E-mail asaeed@mena.savethechildren.se

Aisha is the Landmine Monitor author - for many years.

HOOD Yemen 20/7/10

Khaled Al-Anesi
 Mobile 711102255
 E-mail Khaled.lf@gmail.com

HOOD is one of the very few (2?) Human rights NGOs active in Yemen that work on land issues.

Yemen Association for Landmine/UXO Survivors 20/7/10

Saleh Al-Dahyani
 Mobile 77344778
 E-mail saleh096@hotmail.com

The lead NGO for mine and UXO survivors.

Partners Yemen 20/7/10

Nadwa Al-Dawsari, Programme Director
 Mobile 711722755
 E-mail naldawsari@partnersyemen.org

Partners absorbed the tribal conflict programme out of the National Democratic Institute, and is now the leading active tribal conflict programme in Yemen.

UNDP Early Recovery Unit 21/7/10

Torsten Ahren
 Mobile 712221631
 E-mail torsten.ahren@gmail.com

UNDP have the lead in mine action funding and early recovery for Saada.

YEMAC (Sana'a HQ) 21/7/10

Mansor Al-Azi
Mobile: 733538242
E-mail: mansazi@...

YEMAC (Aden Office) 24/7/10 and 25/7/10

Qaid Saleh. Director
Qaid Hatim Atef – Operations Manager

Women's National Committee 27/7/10

Rashida Hamdani (Mine Action Committee Member)
Mobile: 777392711

Rashida has been a member of the Mine Action Committee since its inception in 1998.

ADEN STAKEHOLDERS

24/7/10 Ahmed al Fadli, Major landowner in Abyan Governorate
25/7/10 Ali Hamed Ghaleb, Major landowner in Lahej Governorate
25/7/10 Guard / Shepherd at Aden Water Works (Lahej)
25/7/10 Fishermen at Abyan / Aden border (Abyan)