



Regional Workshop on the Regional Land Governance Scoping Study
26 – 28 June 2018

Session report: Trans-boundary issues

Thursday, 28 June 2018

The session took place in the context of the Regional Workshop on the Regional Land Governance Scoping Study, as part of the Network of Excellence in Land Governance in Africa (NELGA) Southern Africa Programme. In partnership with the Integrated Land Management Institute (ILMI), the session sought to explore a research agenda focused on trans-boundary issues to complement the country-specific focus covered through the scoping study.

The session focused on exploring trans-boundary issues in land governance, land administration and land rights. Examples of these were the 'Peace parks'¹. The session started with contributions of two participants, Prof Segobye, Dean of the Faculty of Humanities and Social Sciences (asegobye@nust.na); and Prof Werner, Department of Land and Property Sciences and ILMI Board member (wwerner@nust.na).

Prof Segobye's intervention

[PENDING]

Prof Werner's intervention

Another example is the boundary of Namibia and Angola, where most of the Namibian population lives. In 2008, Prof Werner and others undertook work in anticipation of the Millennium Challenge Account (MCA) compact. A large number of people but also cattle live within 10km to each side of the border.

The veterinary cordon fence ('the Red line'), divides the country in two; only those in the South can sell their cattle in international markets due to fears of animal diseases. A big component of this is the permeability of the border between Angola and Namibia, reducing the ability of Namibia to provide guarantees to international markets.

¹ The term has been used interchangeably with 'transfrontier protected areas', 'transboundary natural resource management areas', 'peace parks', 'parks for peace', and 'transfrontier conservation areas'. However, the Global Transboundary Conservation Network has definitions differentiating among these: a **Transboundary Protected Area** is a clearly defined geographical space that includes protected areas that are ecologically connected across one or more international boundaries and involves some form of cooperation; a **Transboundary Conservation Landscape and/or Seascape** is an ecologically connected area that includes both protected areas and multiple resource use areas across one or more international boundaries and involves some form of cooperation; a **Transboundary Migration Conservation Areas** are wildlife habitats in two or more countries that are necessary to sustain populations of migratory species and involve some form of cooperation; whereas the **Park for Peace** is a special designation that may be applied to any of the three types of Transboundary Conservation Areas, and is dedicated to the promotion, celebration and/or commemoration of peace and cooperation. (TBPA, 2011)



The project consisted in exploring the possibility of shifting the 'red line' to the Namibia-Angola border, but the project recommended that the intervention wasn't feasible. However, the issue has re-emerged in the occasion of the 'Second Land Conference'.

[MAP]

Herders at the border move their cattle across the border depending on the season. The Oshimolo trail in South-eastern Angola has a long tradition of trans-border herding, and although the trend is declining it is still taking place.

The rationale for recommending not to shift the line was due to the large amount of people and cattle along the area, and enhancing the border would've created the need for relocation and due to the density in the area it would've been difficult to find alternative accommodation.

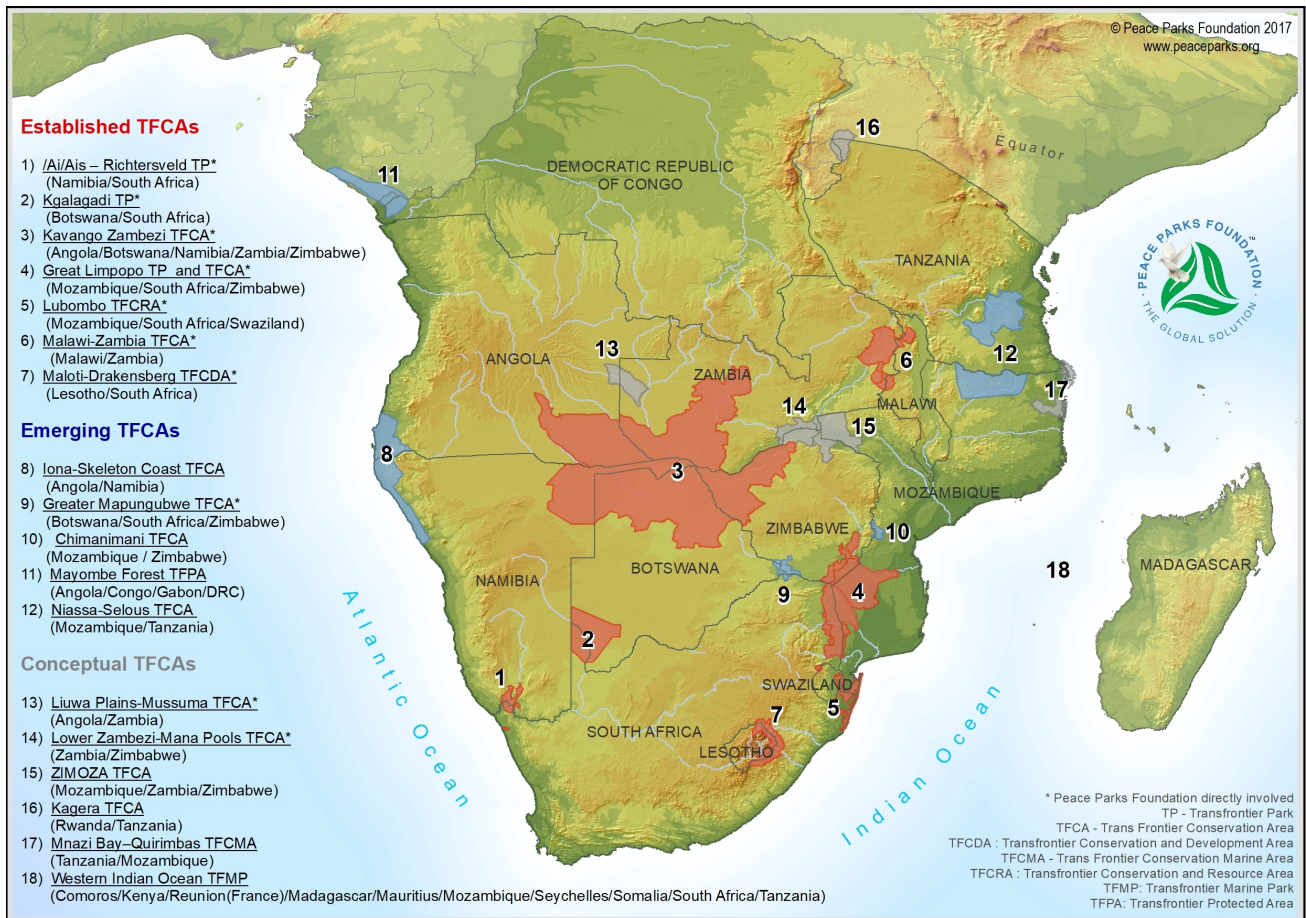
There were some previous attempts to establish a border with fences between Angola and Namibia, but as it was being installed it was soon dismantled by local inhabitants.

Another example is the Kavango-Zambezi Trans-frontier Conservation Area. A large piece of land that encompasses Zambia, Angola, Namibia, Botswana, and Zimbabwe. It's a relatively recent initiative, but issues on access and land rights can be foreseen.

In the South is the Ai-Ais Richtersveld Trans-frontier Park is another example.

The Kasikili/Sedudu island dispute between Namibia and Botswana is a precedent in border disputes; however, there are also issues that remain unaddressed in the Orange river between Namibia and South Africa.

DISCUSSION



Source: Peace Parks Foundation, 2018

Prof Segobye mentioned that the 'Peace Parks' had impact on the idea of democratic access. Specifically, the issues of traditional land ownership, which is understood differently in Botswana and in Namibia. The 'Peace Parks' project introduced ideas of access to land that were previously not there.

She referred to the Kgalagadi trans-frontier conservancy areas (TFCAs), where local groups were able to have representation in ways that were not there before. This is an important example of changing forms of governance in the region, particularly vis-à-vis the authoritarian legacy of colonial regimes. She put as an example the representation of youth in the process, which culturally was not there before.

She compared these initiatives to border conflicts in other regions, where trans-boundary projects have led to violence.

Mr Bayer mentioned how the democratization of existing structures can be indeed a topic that can stem from this topic that also permeated from the other sessions in the workshop.

Prof Kirk noted on the fluidity between boundaries and how these represent new chances to question the idea of nation-states. He asked what is the conceptual and theoretical framework that is going to allow for research to be undertaken on this topic; e.g. polycentric governance, multi-layered governance.



A participant noted how the trade routes were also a relevant topic in terms of the costs that it takes for economic exchange to take place. He mentioned figures on how expensive it is to conduct trade in the area versus other regions in the rest of the world.

Another participant prompted to spell out the vision for shared governance of territories in Southern Africa.

Prof Werner warned that these trans-boundary issues raise another set of issues, one of them that these issues come on top of national issues which are already overwhelming; another is donor interests, which are strongly link to the idea of 'peace parks'. He put the example of how a conservancy area in Zambezi caused displacement of people, which is a little-known fact. This was the result of conflicts between local chiefs and those taking part in the communal conservancies' scheme. The question is how does that impact on land rights at the local level? While there are good intentions in these initiatives, he advised to have a critical distance to these.

Prof Segobye agreed that there were cases in which large amounts of money arrived to some of the communities that were not used to handle such funds, which created some instability. In some other cases, governments reversed some of the attributes of beneficiaries. However, this can also create the opportunity for further training, financial management, and other skills; instead of reversing the resources arriving to these areas. Another phenomenon that has started to emerge is inter-competition among Peace Parks.

A participant mentioned on the need to empower the base groups and avoid such initiative to become top-heavy.

Mr Muduva shared his experience of growing up in Kavango East, and not seeing the river as a boundary. He mentioned how one family is found in both sides of the river.

Prof Kirk mentioned the environmental conventions, which were created in 1991. These are international mechanisms against climate change, desertification, biodiversity preservation, etc. He offered this as a background on how several countries are cooperating, how are communities involved, etc. These precedents can provide lessons on the benefits and challenges to engage in trans-boundary land governance issues. As researchers, the agenda should be to find out what was the outcome of what has happened; not necessarily to change a policy in a particular way.

A participant proposed to use this opportunity to challenge the idea of the nation-state and the relevance of international and regional law. He mentioned some cases in which the national government engage in a dispute that is even raised to the International Court of Justice, but when one looks at the ground, the inhabitants of the space in question get along well. He prompted to look at 'indigenous ways' to deal with common management of resources across boundaries. He also proposed to watch out for corporate interests in Peace Parks. He also quoted an article that demonstrated how 'Peace Parks' could be 'violent parks' when their objective creates damage for those inhabiting the space in question². He prompted participants to see for the best benefits for those living in the ground. He also mentioned he 'Zambia-Malawi-Mozambique Growth Triangle'³, a border area with very interesting cases of trans-boundary relations; he shared how farmers use land in different sides of the border, and enter into cross-border agreements with peers on the other country without any state intervention. He mentioned how in some cases people based in three different countries subscribe to one chief, which enables transactions among

² This may refer to Büscher & Ramutsindela (2016).

³ See UNECA (2014)



them. However, a donor-funded project brought this to the attention of the state, which understood this as 'smuggling'.

A participant seconded the previous contributor and encouraged to keep the question of 'who benefits?' present when engaging in the study of 'Peace Parks'. He mentioned 'Green Schemes' in Namibia⁴ as an example of how seemingly-beneficial projects on paper end up having mixed consequences when implemented. In some cases, he argued that the intervention may not be worthwhile. He also mentioned how the issue of the 'red line' in Namibia is a colonial measure to control people; he also exemplified how the pretext of 'disease control' was imposed as a reason for controlling the colonised's mobility, but the colonisers were free to move throughout.

Dr Nghitevelekwa warned of Southern Africa as a frontier for foreign investment.

A participant mentioned the issue of xenophobia: how inhabitants at the border may have friendly relationship with each other, but when one goes to live to the others' country, the issue of xenophobia arises.

Prof Segobye raised the issue of repatriation across borders, and put the example of those who fled Namibia during the genocide and were now claiming their right of return. This raised the issue of how in the cases of transboundary populations, the issue of citizenship becomes problematic. She exemplified how one family member, eventually acquiring certain citizenship and later on struggling to re-unite with her loved ones due to migratory constraints.

Conclusions

Bayer summarised the discussion into challenges, implications and opportunities.

Challenges: resourcing of trans-boundary spaces, as they don't 'belong' to one country; vested interests in these spaces; absence of local participation and decision-making; narrow definitions of 'citizenship'; cultural aspects; how the 'legal' and 'illegal' apply in these spaces.

Implications: tenure regimes and impact of land rights of inhabitants; border controls and systems; defining disciplinary approaches; the tension between the 'people on the ground' and the 'national interests'; how the scale at which the issue is approached.

Opportunities: democratising access to land and resources; new role of the state and existing structures; regional responses for local and international challenges; disciplinary innovation in addressing trans-boundary issues.

References

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⁴ See MAWF (MAWF, n.d.)



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List of participants

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