

PROTECTING COMMUNITY LANDS & RESOURCES IN AFRICA

GRASSROOTS ADVOCATES' STRATEGIES & LESSONS

Namati is an international organization dedicated to advancing the field of legal empowerment and to strengthening people's capacity to exercise and defend their rights. Namati's Community Land Protection Program supports communities to follow national land documentation laws to protect their customary and indigenous land claims. Namati works in partnership with national organizations to implement community land protection programs, research impacts, support governments to enact and implement legislation that protects community land rights, and advocate for increased global protections for community land and natural resource rights.

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Natural Justice works at the local, national and international levels to promote social and environmental justice. To challenge local forms of marginalization, Natural Justice provides legal support to Indigenous peoples, local communities and their representative organizations. To tackle systemic injustice, Natural Justice's lawyers work at the national level to improve the quality of legislation and its implementation, and engage directly in international processes. Since 2010, Natural Justice has run the Global Initiative on Community Protocols, as a means to empower communities to use the law to speak for themselves and to engage other stakeholders as equals.

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Edited by: Stephanie Booker, Rachael Knight and Marena Brinkhurst.

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CASE STUDY

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RESOLVING HISTORICAL INTER-COMMUNITY BOUNDARY CONFLICTS IN MOZAMBIQUE

BY NELSON ALFREDO, **CENTRO TERRA VIVA (CTV)**
 (TRANSLATED BY MARENA BRINKHURST, NAMATI)

For information on Centro Terra Viva, please see the CTV case study in Chapter 1.

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THE BOUNDARY CONFLICT BETWEEN GUICONELA-GUIFUGO AND PAINDANE

The Mozambican *Lei de Terras* sets out requirements for representative and inclusive participation in natural resource management decisions, including community self-definition and identification of boundaries. However, it is not uncommon for boundaries between communities to be contested – sometimes in the form of active conflicts, and other times as simmering, long-standing historical disputes. When two communities have very different ideas about what belongs to which community, settling on an agreeable definition of ‘community’ may require long and extensive conflict resolution efforts.

The communities of Guiconela-Guifugo and Paidane are located along the coast in the District of Jangamo. They are separated by a common boundary identified by massaleiras trees and concrete markers. In the past, before Mozambican Independence, the community of Guiconela-Guifugo was led by a man named Thowane who had the habit of forcibly violating the wives of men who had gone to work in the mines in South Africa. A subset of the community revolted against this behavior, and banned Thowane from entering their area. As part of the revolt, the community members living in this area seceded from Guiconela-Guifugo to become part of Paidane. Paidane thereafter counted this zone as part of its community, collecting taxes from residents, registering voters, and performing all other administrative duties. Guiconela-Guifugo, however, never accepted the zone’s secession, and considered the area to have been “invaded” by Paidane, albeit with the consent of the residents themselves. Over the ensuing decades, the communities had tried to resolve the matter, but negotiations always ended in death threats shouted between leaders. The boundaries remained fuzzy and flexible and for many years this was a workable stalemate.



The seceded zone became a point of conflict during the boundary harmonization exercises. Multiple meetings - some including emotional testimony recounting the trauma that led up to the succession - were necessary to arrive at a mutually-agreed solution. CTV's field team provided mediation support on a number of occasions. After much discussion of the origins of the schism, CTV led the communities to agree that the zone would thereafter be considered part of Paindane. However, while Guiconela-Guifugo argued that the boundary line between the communities was the road linking the city of Jangamo to the sea, Paindane did not agree. Representatives of both communities went to walk the boundary limit. They spent three days progressing along the boundary, stopping to confirm agreed limits and resolve disputed areas.

The final point of contention concerned a large stone in the middle of the Indian Ocean called "Guissimiane." The leaders of Paindane argued that the stone was considered to be part of their community. The leaders of Guiconela-Guifugo maintained that this stone was a cultural site for their community, where their ancestors had performed traditional ceremonies. After much debate, it was revealed that there was an investor interested in developing a tourism venture along the beach, and so both communities wanted to claim the beach as theirs to reap any potential benefits of the investment. When CTV asked the leaders of Paindane if they were aware of the cultural significance of the rock to Guiconela-Guifugo, they conceded that Guiconela-Guifugo had ownership rights over the rock and the beachfront. With this concession, the boundary conflicts were resolved, and the two communities thereafter held a large celebration to mark the end of what had been a generations-old dispute.

The problems with community self-definition in Guiconela-Guifugo and Paindane were rooted in a historical dispute that had never been resolved. While boundary negotiations between Paindane and Guiconela-Guifugo had been attempted several times before, the new conflict was more intense because of the arrival of tourism investors. This new opportunity for financial gain and new external pressure reduced the sense of flexibility



Left: CTV staff and community members document disagreements about boundary locations. © CTV

Above: An example of a community sketch map. © CTV

about boundaries that had previously accommodated a stalemate. Now the leaders of the two communities were much more sensitive about protecting and increasing their own interests. The conflict became about more than the historical grievance, but these were used as an emotionally powerful rallying point to encourage opposition to compromise.

Another interesting aspect of the conflict between Paidane and Guiconela-Guifugo was the power wielded by the people residing in the seceded zone. Their views on which areas belonged to which community proved highly influential; primarily because the implications of the decision would determine which community the families belonged to. Many families had strong positions about which community they belonged to, beliefs that were rooted in the historical grievances. The presence of these families in the seceded area meant that the territory became, in practice, part of Paidane, even though there had been no formal agreement. This was further strengthened by the fact that there is no legislation that requires a person to pay tax to one particular community over another, so the families formalized their allegiance to a community by deciding where to pay their taxes. Over time this further legitimized areas as belonging to a particular community. The respect granted to the families' right to choose their community assisted in resolving the dispute.

LESSONS LEARNED

In its efforts to support the resolution of inter-community boundary conflicts, CTV has learned several lessons:

- » **Try remedies other than litigation whenever possible.** When the dispute is rooted in a long-standing historical grievance, as in the case of Guiconela-Guifugo and Paidane, CTV has found that mediation and conflict resolution is more effective than litigation at reaching a lasting solution, especially when two communities need to co-exist in close proximity.
- » **Harmonize boundaries before considering investments.** The experiences of Guiconela-Guifugo and Paidane highlight how important it is that community boundaries are properly organized and harmonized before implementation of any project or investment within a community's lands, if at all possible. Otherwise, the existence of investment may worsen a boundary conflict with neighboring communities and make conflicts much harder to resolve.
- » **Unite internal forces around resolving conflicts.** A major challenge with the Guiconela-Guifugo and Paidane case was the prevalence of internal leadership conflicts within Paidane. During CTV's mediation of the conflict it became apparent that there was an internal movement seeking to discredit the current leadership. This faction organized a wave of opposition to all agreements that the leaders reached with Guiconela-Guifugo and kept sending them back to the negotiating table. CTV realized that it needed to facilitate internal unity within Paidane as part of the larger conflict mediation strategy.