



Building a sustainability framework for SADC TFCAs: a legal perspective

BY

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SADC TFCAs

Definition of TFCAs

as areas or components of large ecological regions that straddle the boundaries of two or more countries, encompassing one or more protected areas, as well as multiple resource use areas.

Wildlife Protocol, 1999



TFCA objectives

- ▶ biodiversity conservation
- ▶ improvement of livelihoods - poverty alleviation
- ▶ economic development
- ▶ Regional integration
- ▶ etc

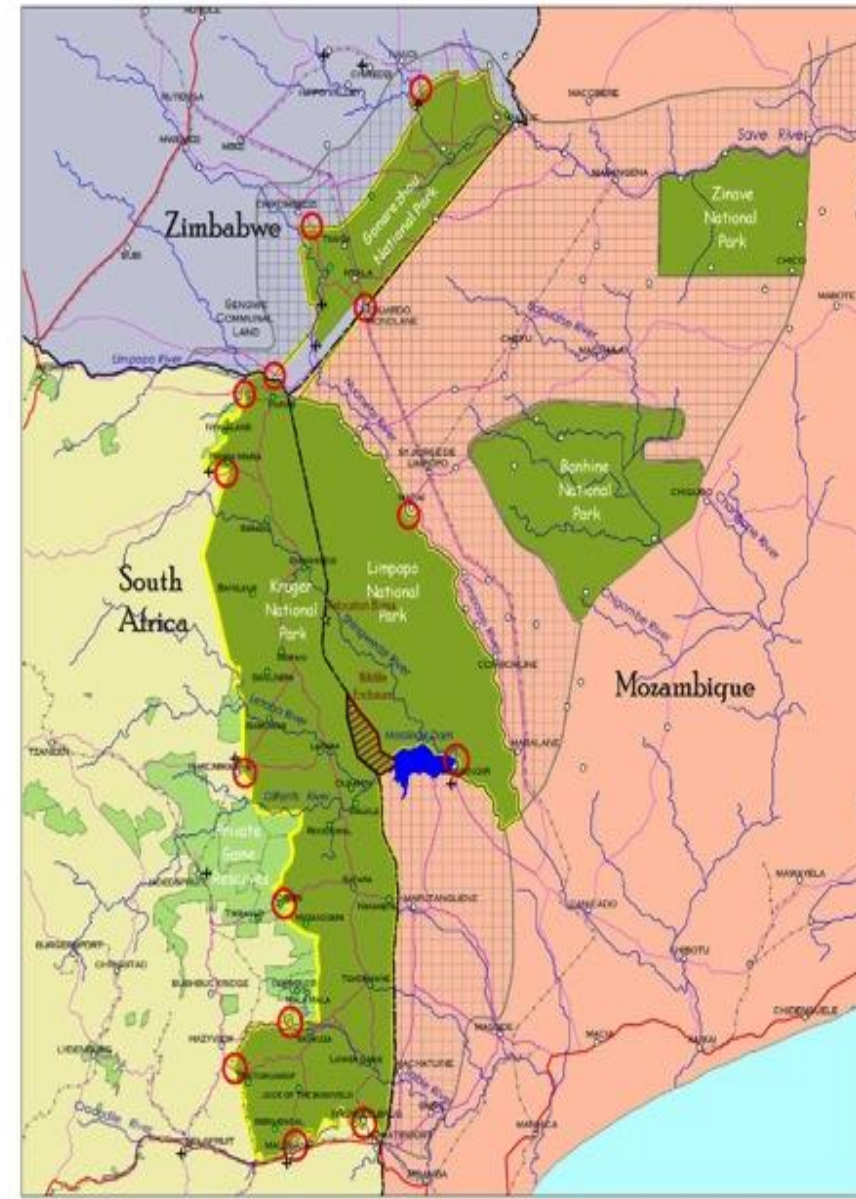
Challenges in TFCAs: GLTFCA

Biodiversity conservation - fortress conservation.

Improvement of livelihoods/poverty alleviation - Marginalisation of rural communities, poverty, involuntary displacement and resettlement, lack of protection of informal border trade, HWC, Human-Wildlife-Livestock Health....

Economic development (Tourism challenges) - lack of revenue sharing, uneven distribution of tourism development, reduced of local control, economic instability ...

Governance structure weaknesses - exclusion of local communities as key actors, weak property rights, lack of devolution of power to rural communities, political instability in TFCAs country components



Scale 1:2 000 000

Striving for sustainability

Pillars of sustainable development

- ▶ Economic sustainability
- ▶ Ecological sustainability
- ▶ Social & cultural sustainability
- ▶ Political & institutional sustainability

Legal principles for sustainable development

- ▶ Sustainable use of natural & cultural resources - protected areas management, *biodiversity conservation, sustainable tourism, hunting, CBNRM, TBNRM, agriculture, livestock, fishing, cultural/heritage fairs, etc.*
- ▶ Equity and poverty eradication - *social equity, human rights, community wellbeing, displacement & resettlement, local prosperity, employment quality,*
- ▶ Common but differentiated responsibilities and capabilities- different groups before the law require different rights and responsibilities
- ▶ Good governance - legitimacy, devolution/local control, inclusivity, transparency, accountability, fairness, adaptability
- ▶ Integration - economic, social and environmental policies/programs; reconciling, accommodating and harmonising the priorities, concerns and norms etc
- ▶ Procedural principles - public participation, access to information and justice

Striving for sustainability - legal approach

Rationale

- ▶ The essence of a legal approach is to ensure that these aims or policy implications translate into rules, norms and prescriptions that are explicitly formulated, authoritative, legitimate and enforceable.

Focus: legal framework

- ▶ **Governance actors** - to address the governance challenges
- ▶ **Governance tools** - to determine the tools that these actors use to address the challenges to realize TFCA objectives

Striving for sustainability: environmental governance approach

TFCA Governance actors

- ▶ State actors - state parties, line ministries (national, provincial, local), protected areas managers.
- ▶ Non state actors - private landowners, businesses, local communities, NGOs, civil society, external entities (donors).

Relevant Laws

- ▶ Law establishing TFCAs
- ▶ Protected areas management laws
- ▶ Local governance laws
- ▶ Tourism laws
- ▶ Laws governing other economic activities
- ▶ Other governance laws

Striving for sustainability: environmental governance tools

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Striving for sustainability: environmental governance tools

TFCA challenges

- ▶ Biodiversity conservation
- ▶ Improvement of livelihoods/poverty alleviation
- ▶ Economic development (tourism)

Governance tools

- ▶ Command & control
- ▶ Incentive based tools
- ▶ Agreement based tools
- ▶ Civil based tools

Striving for sustainability: environmental governance tools

- ▶ Mandatory management options for local communities to participate in protected areas management;
- ▶ Mandatory CBNRM mechanisms, including benefit-sharing mechanisms;
- ▶ Administrative sanctions for non-compliance with the above tools;
- ▶ Criminal sanctions for wildlife crimes - poaching, illegal fires, illegal trade, etc;
- ▶ **Biodiversity conservation**
- ▶ CBNRM incentives for local communities;
- ▶ Agreements between state actors, private actors and local communities for biodiversity conservation;
- ▶ Enforcement of rights to natural resources, including land;
- ▶ Complementary procedural rights for the enforcement of the natural resource rights; and
- ▶ Civil remedies for infringement of natural resource rights.

Striving for sustainability: environmental governance tools

Improvement of livelihoods/ alleviation of poverty

- ▶ Mandatory provisions for
 - ▶ poverty reduction programmes or strategies;
 - ▶ provision of basic services by private actors;
 - ▶ voluntary TDIDR

- ▶ Provincial legislation and local government by-laws for basic services by provincial and local government,
- ▶ Social licenses, prescribed in law, for improvement of livelihoods through tourism development projects;
- ▶ HRIAs, provided for in law, for tourism development projects
- ▶ Voluntary or agreement-based tourism certification standards for
 - ▶ improvement of livelihoods and poverty alleviation
 - ▶ private sector facilitating TDIDR;
- ▶ Incentives /agreements for private actors to
 - ▶ provide basic services;
 - ▶ Facilitate voluntary TDIDR
- ▶ Agreements between state actors, private actors and communities affected by TDIDR
- ▶ Rights of :
 - ▶ access to basic services;
 - ▶ local communities affected by TDIDR;
- ▶ Civil Remedies for
 - ▶ violation of these human rights.

Striving for sustainability: environmental governance tools

▶ Economic devt in TFCAs

- ▶ International revenue sharing agreement(s) for TFCAs participating countries;
- ▶ Mandatory provisions for :
 - ▶ national revenue sharing mechanisms to effect international agreement(s);
 - ▶ tourism planning and strategy, marketing, infrastructure development, land use planning in TFCAs;
 - ▶ for investment in TFCAs;
 - ▶ Tourism concessions;
 - ▶ Equitable treatment of foreign and national investors, large investors and SMEs;
 - ▶ Local procurement by private actors in TFCAs;
 - ▶ Movement of goods and persons in TFCAs;
 - ▶ Labour regulations for tourism employers in TFCAs;
 - ▶ CSR provisions for private actors; and
- ▶ Incentives for:
 - ▶ Investment in TFCAs;
 - ▶ Incentives for tourism businesses, including, land rights for tourism investors;
 - ▶ Favourable immigration controls for foreign tourism businesses and tourists;
 - ▶ Local procurement by state actors and private actors;
 - ▶ Improved employment quality by the tourism sector in TFCAs;
 - ▶ Job creation and job security by the tourism sector in TFCAs;
 - ▶ Tourism specific incentives and certification standards for additional CSR strategies.
- ▶ Agreements for
 - ▶ Investment in TFCAs (PPPs)
 - ▶ Movement of goods and persons in TFCAs;
 - ▶ Local procurement by state actors and private actors

Questions?

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Thank you

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