

HARMONIZING BOUNDARIES WITH NEIGHBORS



Boundary harmonization is the process through which neighboring communities agree on where their community's lands stop and their neighbors' lands begin. **For many communities, boundary harmonization may be the most challenging part of the community land protection process: it can bring up unresolved land conflicts and may create new boundary disputes as people try to claim as much land as possible before boundaries are officially documented.**

When intra-community land conflicts arise, community cohesion and cooperation may weaken, rumors spread, and accusations emerge. People involved in a land conflict who know that they are in the wrong may try to undermine support for documentation efforts, seeking to keep land that they had acquired in bad faith. Inter-community land disputes often revive memories of past conflict, inflame divisions between families and clans, and arouse intense anger. Facilitators should be prepared to provide conflict resolution training and mediation support throughout boundary harmonization.

When successful, boundary harmonization efforts have the power to peacefully resolve long-standing conflicts and promote people's sense of tenure security. Communities' desire to protect and document their lands can motivate people to resolve even generations-old disputes. In Uganda, one community member observed, "People who could not look one another in the face for years are now laughing together!"

WHEN IS A COMMUNITY READY FOR BOUNDARY HARMONIZATION?

Because of the potential for conflict, facilitators should judge carefully: 1) whether a community is ready to harmonize its boundaries; and 2) whether the community can commit to seeing the boundary harmonization process all the way through to its successful completion. Thoughtful analysis is critical: **if a community withdraws from boundary harmonization efforts partway through, it may face more land conflict and greater tenure insecurity than before it began community land protection work.**

The following factors often lead to successful boundary harmonization:

- **A community's willingness to compromise.** A community motivated by a strong desire to maintain good relationships with neighboring communities while working to protect its land may move through the process faster than others. If community members are not willing to compromise, the boundary harmonization process will stall. Likewise, if powerful elites in the community claim land in their individual name or have reason to object to a certain boundary, they may significantly delay the process. .

- **Strength of the community leaders.** Boundary harmonization efforts may create conflicts of power, authority and jurisdiction between leaders. Communities must be careful to involve all respected, trusted leaders and ensure that all leaders feel included and valued. Customary leaders in particular should be invited to play a role. Facilitators should proactively address intra-community power struggles and work to establish inclusive, cooperative processes.
- **Drafting by-laws first.** Because boundary harmonization takes a long time, many facilitators choose to begin the process immediately after finishing the “Laying the Groundwork” phase. However, in a region or community plagued by multiple land conflicts, or where there are a high number of intra-community boundary disputes, it is more efficient to complete the by-laws process first, elect a Land Governance Council, and only then approach boundary conflicts. This alternative order will allow the community to strengthen its land governance and improve intra-community unity and cooperation. A more united, coherent community may then more easily resolve its land conflicts.

HOW TO FACILITATE BOUNDARY HARMONIZATION?

The boundary harmonization process can take a long time. For some communities, harmonizing boundaries may take only two months, while for others it may take almost a year. Communities may need to have many long, intense discussions with their neighbors before they are able to agree on the locations of boundaries. Some communities have held up to a dozen separate meetings with their neighbors before reaching workable compromises.

Facilitators should support communities patiently through this process. **It is important to allow communities as much time as they need to arrive at genuine boundary agreements.** If communities do not genuinely resolve the issues underlying the boundary conflict, the agreed boundaries may not be respected in the future. Give each community the time it needs to effectively resolve land disputes with its neighbors so that the boundaries are not contested later on. Many communities will be able to successfully address boundary conflicts on their own. In fact, some communities prefer that facilitators are not present for negotiations. However, if negotiations fail to harmonize a boundary, it may be necessary to use alternative dispute resolution strategies (see the chapter on *Land Conflict Resolution*). Facilitators should be ready to step in to help resolve particularly difficult or long-standing land disputes, or

to invite respected, neutral third parties, like regional cultural leaders or local government officials, to help mediate the conflict. It is useful to advise community leaders to talk to respected leaders in advance to inform them about the boundary negotiation process and let them know they may be called upon for help mediating a boundary dispute.

Inter-community dispute:

A conflict between different communities.

Intra-community dispute:

A conflict within a community.

To support communities to harmonize their boundaries, facilitators should lead communities through the following steps:

Step 1: Provide an overview of the boundary harmonization process. Call a very large community meeting and explain all the steps of the process. Remind the community that boundary harmonization is also conflict resolution, so community members should proceed carefully and peacefully and be ready to make compromises.

Step 2: Provide conflict resolution and mediation training. Make sure communities are ready to enter into boundary harmonization negotiations with a range of skills, perspectives and successful strategies. Train and support communities to use various compromise strategies and mediation and dispute resolution tactics. Make sure communities are aware of the many ways they can compromise about a boundary. (See the “Potential Solutions to Boundary Conflicts and Other Land Conflicts” box below and the chapter on *Land Conflict Resolution*.)

Step 3: If available, revisit the community’s map and identify all boundaries and “hot spots.” Ask the community to look at its map and discuss what they think are the exact boundaries of their lands. Then, have community members mark any “hot spots” (sites of boundary disputes or possible tensions with neighbors) on the map. To help identify community boundaries and potential disputes, facilitators might ask the following questions:

- Who are your neighbors? How many communities do you share a boundary with?
- Do you and your neighbors agree on where your land stops and their lands begin?

- Why is that particular location the boundary of your land? Is there a story to explain that boundary?
- What are your relationships with each of your neighboring communities like?
- What history do you have with each of your neighbors?
- Do you share any resources or land areas with your neighbors?
- Is the boundary a customary boundary or one made by the state?
- Do you have a marker at each boundary? If you had a marker that is now gone, what happened?
- Did you have any conflicts at these borders that have now been resolved?
- Do you have any existing conflicts at these borders? What are these conflicts about?
- Has your community ever tried to resolve these conflicts? What happened?

Step 4: Support the community to make a plan for how it will try to address any boundary conflicts. Remind the community of the bigger picture: it is better to compromise to gain peace and protect their community lands than to fight over small pieces of land and remain in conflict, without legal protection for community lands. Discuss a range of compromise solutions.



POTENTIAL SOLUTIONS TO BOUNDARY CONFLICTS AND OTHER LAND CONFLICTS

1. Inter-community boundary conflicts:

- **Agree to accept one community's definition** of the boundary.
- **Agree to share the disputed land** as a common area, recorded on formal documents as owned by or belonging to *both* communities with equal rights of use and access.
- **Agree to divide the disputed land equally in half**, each party giving up half of the contested area.
- **Allow towns or households located within the contested area to choose which community they would like to belong to.** For example, members in one community described how: “We failed to come to one understanding, so we fought among ourselves. Some people kept talking about history, and we could not go nowhere. So we started talking to the community people in the town [on the border of the two fighting communities] to decide what they wanted to do. We allowed the town at the border to decide what they want to do and then we supported them.”
- **Locate and compromise on either the administrative boundary or the original traditional boundary.** In cases where conflict stemmed from differences between administrative and customary boundaries, some communities agreed to abide by one of these pre-defined limits. For example, one boundary conflict between two communities was easily resolved because these communities thought of themselves as “brother” communities. Their boundary conflict was over a small area of land, and each community felt that it would be less of a loss to compromise and lose some land than to fight with its “brother.” They resolved their conflict by agreeing to use a relevant pre-existing administrative boundary as their formal dividing line.

2. Intra-community disputes over common areas:

- **Allow encroachers to stay where they are**, conceding that the land they have taken is no longer being part of the common lands.
- **Allow encroachers to keep part of the land they have taken** but return part of the land to the community.
- **Evict encroachers and give them a reasonable time period to move off the land.** For vulnerable or impoverished encroachers who have moved onto common lands because they have nowhere else to live (such as widows, elderly men with no children, etc.), communities may respond by finding alternative land to give them to live and farm on. For richer families who have grabbed land in bad faith, communities might take a harder line, giving them a specified time period to return the land to the community or their neighbors.

3. Conflicts between a community and an outside actor:

- **Allow small-scale users** from other communities using community resources for livelihood purposes to continue to use resources, but **pay a fee for a monthly license**, with limits placed on the amount of extraction permitted.
- **Allow medium-scale regional investors to pay for licenses, leases or permits** to use the land and natural resources on a monthly basis, with limits placed on the amount of extraction permitted or the degree of environmental degradation.
- **Renegotiate terms of a pre-existing agreement** with international investors that addresses concerns of the community and investors, as raised in the mediation.

Step 5: Support the community to select a boundary harmonization team. This team will meet with the community’s neighbors to discuss boundaries. Community members should choose people who will represent their community’s interests well. **The skills and personalities of members of the boundary team can significantly improve a community’s ability to harmonize its boundaries.** The boundary team should be composed of well-respected, cool-headed, thoughtful and capable community members. It should also be diverse, representative of all community members. It is important that the community trusts the boundary team and has confidence in its ability to represent the community and negotiate calmly with neighbors.

In Liberia, boundary teams that included both elders and youth proved to be the most effective in negotiating boundaries, as they had complementary negotiation tactics and viewpoints: the youth tended to see land as a tradable and negotiable commodity (“something a house is built on”) while elders tended to define land as “what our forefathers left us” or “where our forefathers are buried,” attaching strong emotional, historical and territorial sentiment. Although elders’ opinions were more respected, elders tended to be rigid in negotiations while the youth tended to be more flexible.

Boundary teams should include traditional leaders, youth, women, elders, and Community Land Mobilizers. In some communities, elders and youth may be the most effective in negotiating boundaries. In others, women and traditional leaders may be most effective. Make it clear to communities that they can change the composition of their boundary team as needed – community histories and relationships may mean that some people might be very effective when dealing with one neighboring community, but less effective when negotiating with another neighboring community. For example, a community may want to choose individuals who know the area in dispute well and have a good reputation with the neighboring community. Successful negotiators often have preexisting relationships with neighboring communities. Encourage communities to remain flexible and to add or replace members on the team as necessary.

Step 6: Facilitators, community leaders and Community Land Mobilizers should meet with the boundary harmonization team to discuss dispute resolution and mediation techniques. As part of this discussion, the boundary harmonization team should:

Draft a statement describing the purpose of the boundary team, who they represent, and their general attitude toward working with neighboring communities.

- Discuss each of the “hot spots” along their borders and think carefully about the origins of each boundary conflict.
- Remind each other about any past efforts to resolve the conflict(s), and all results of those efforts – what happened, and what were the outcomes of previous resolution attempts?
- Create a dispute resolution strategy for how the team will attempt to resolve disputes with neighboring communities. This strategy should include:
 - What decisions the team can make on its own and what decisions should be brought back to the community for their input.
 - How the team will document and share conversations and agreements with neighboring communities.
 - What circumstances will require the team to contact their Mobilizers or the facilitating organization for support.
- Brainstorm a range of compromises to propose to the neighbors, paying careful attention to only include solutions that the community as a whole has approved to suggest to neighbors.
- Strategize possible responses to counter-offers that the neighbors might suggest – including various responses if the neighbors refuse to compromise.
- Remember what their community has to gain if the boundary disputes are successfully resolved, as well as what may be lost if the boundary remains contested.

Support the community to make clear rules about what compromises the boundary team can agree to on its own and what compromises it must bring back to the whole community to discuss and agree upon together. Communities that are prepared to make compromises to resolve their boundary disputes tend to progress more quickly through boundary harmonization.

Step 7: The boundary harmonization team meets with the neighboring community to discuss, negotiate, and agree on boundaries. If the neighboring community is not currently engaged in its own community land protection process, community leaders can meet with the boundary team, or create their own boundary team. It is best to have the meetings at the actual site of the boundary when possible, so that people can look at the landscape for clues as to where the boundary is located. If there is no conflict or only minor disagreements, negotiations may take only one meeting. If there is a serious conflict, it may take many months.

If the boundary team and a neighboring community cannot agree during the first meeting, they should leave the discussion for the day and give everyone time to think. Remind the community that it should not force a decision with neighboring communities if they are not ready to compromise. The boundary team should be prepared to keep having meetings until a compromise is found or until mediation or another conflict resolution strategy is necessary.

Protecting rights of way: Many communities give outsiders or members of neighboring communities rights of access through their land, either to travel through the area or to access resources that they have rights to use, such as a water source. The boundary team and neighboring communities should agree on the location of these routes.



NEGOTIATION

In negotiation, the people on either side of a conflict come together *without an external mediator* to work toward resolution on their own. Facilitators can support the parties to prepare for negotiation and provide advice on how to negotiate most effectively.

Preparing for Negotiation:

- Select a neutral location for the negotiation, which will ensure a balance of power between the parties. In many boundary disputes, it is best to hold the negotiation at the site of the conflict. There, it is possible to discuss the conflict in practical terms, instead of theoretically, and look for evidence that can contribute to the discussion (based on the physical terrain and natural resources at the site). If the parties cannot go to the site, use a detailed map of the area with resources clearly marked.
- Only the boundary harmonization teams and direct stakeholders should take part. Establish how many people will be present and participating from each party, and who will be the primary representative from each side. If there is a large number of stakeholders, a few elected or chosen representatives from each side should negotiate.
- Set ground rules for the meeting, such as: one person speaks at a time; no demeaning or hurtful language, etc.
- Support the parties to decide whether or not they will call witnesses, and if so, who will speak.
- Support the parties to think about their ideal outcome, what they are willing to compromise about, and what they are not willing to compromise about.
- Help each side to understand the other's perspective and desired outcomes.

Effective Negotiation Strategies:

- Opening statements. A negotiation begins with an uninterrupted opening statement by each side that expresses its views, understandings, and desired outcomes. After each side has made its opening statement, the other side can ask questions to clarify anything that remains unclear (not to argue back).
- Testimony by witnesses. Next, witnesses may come forward to add useful or important details or information to the conflict at hand. If the roots of the conflict are in the distant past, witnesses might include elders who were alive at the time.
- Offers and counter-offers. Together, the parties discuss possible outcomes, including what an ideal future might look like. Each party then offers to give something up to keep what is most important to it and reach a compromise. The other side can agree to that offer or make a counter offer of what would be a better compromise for its needs. The parties go back and forth until a compromise is reached.
- Recording the agreement in writing. Once agreement is reached it should be written and signed by all parties and witnesses, then publicly announced. Written agreements work best when they include detailed instructions for how the agreement will be made "real" – for example, who will plant or erect boundary markers, what will happen if someone disrespects the agreed boundary, etc.

Step 8: The boundary harmonization team returns to the community to discuss and confirm the boundaries agreed upon with neighbors. After an agreement has been reached, the negotiators from both communities must return to their communities to seek final approval for the agreements. If the community does not agree with the negotiated boundary, then the boundary harmonization team must return and resume negotiations, bearing in mind the communities' objections. It is important that everyone in both communities is aware of the agreed boundaries and accepts them.

To prevent last-minute community disagreement after lengthy negotiations, it may be useful for the boundary team to provide regular updates to its community between meetings with neighbors. This will help to ensure that the viewpoints of all necessary stakeholders are included.

In Mozambique, one community had fully harmonized its boundaries with neighbors, but when traditional leaders consulted the community's ancestors, the ancestors refused to accept the newly agreed upon boundaries, and the team had to return to its neighbors and continue to negotiate.

Step 9: Mark the agreed-upon boundaries. After the boundaries have been agreed and accepted by communities, the agreements are formalized using Memoranda of Understanding (MOUs) and boundary trees, signs, and culturally appropriate markers (see the chapter on *Documenting Agreed Boundaries*).

Communities will likely need state support for enforcement of agreed boundaries over time. As land scarcity continues to rise, encroachments may become more prevalent. There is a role for government actors to help communities deal justly with encroachers and maintain the community lands as agreed and documented. (See the chapter on *Ensuring Implementation and Enforcement of By-laws*.)

