

**UNIVERSITY OF NAIROBI**

**INSTITUTE OF DIPLOMACY AND INTERNATIONAL  
STUDIES (IDIS)**

**Pastoralism and Conflict Management in the Horn of  
Africa: A Case Study of the Borana in North Eastern Kenya**

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**A Research Project Submitted in Partial fulfillment of the requirements for the award  
of Masters of Arts Degree in International Studies.**

**2015**

## **DECLARATION**

This thesis is my original work and has not been submitted for any Award in any other University.

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This thesis has been submitted for examination with my approval as the assigned University Supervisor.

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## **DEDICATION**

I wish to dedicate this work to my dear family, my wife Jackline Khayesi Ligami and to our children Elizabeth Kakai Watakila and Charles Mukabi Watakila, for their support, patience and sacrifice during my study.

## **ACKNOWLEDGEMENT**

I acknowledge my supervisor Dr. Kizito Sabala for his guidance and input throughout this research study. I further wish to appreciate the committed leadership and direction of the college commandant Lt Gen J N Waweru and the entire faculty staff, for providing an enabling atmosphere during the course duration that enabled me to complete this thesis on time.

I also give special thanks to the University of Nairobi lecturers, for their tireless efforts to equip me with the necessary tools for my study. I further wish to thank my fellow course participants of Course 17 of 2014/2015, for their constant support and encouragement.

## **ABSTRACT**

Generally, the study is about pastoralism and conflict management in the Horn of Africa using Borana of Kenya as a case study. It examines the causes and impact of resource conflicts in HoA then conflict resolution mechanisms in Borana Community and finally concluded with a tranche of recommendations to make conflict resolution mechanisms more effective. The study sets out two hypotheses namely that Political and traditional practices are a hindrance to the conflict management mechanisms among the Borana community and secondly the weak normative and Institutional mechanism largely explain the persistence of pastoral conflicts in Borana Community. The study which depended largely on primary and secondary data with intermediate use of maps and tables including thematic approach to present the information was situated within the realism theory.

This study found out that the conflicts and their impacts on the one hand, and the ill-advised and often non-consultative, top-down interventions by governments and other development actors have undermined the confidence of communities on the future of pastoralism as a livelihood and land use system. This has the result of creating hopelessness within these communities, which know that pastoralism is the most appropriate way for them to make use of the ASALs and at the same time see many restrictions and constraints placed in their path by inappropriate policies and interventions as well as other natural factors that they are increasingly unable to manage.

This study demonstrates analytically the socio-political and socio-legal aspects that characterize the customary and formal justice institutions and shows the existence of tension between them that needs to be addressed through a legal framework that accommodates the two in one legal pluralism. This is to allow the effective operations of customary justice systems without fear of contradicting the formal systems, and to have the customary restorative justice systems decisions of conflict resolutions and range resources management as binding upon the state.

Lastly, the study has shown that the Borana of Northern Kenya have continued to depend on their customary systems for dispensation of justice and it has served them well. The formal justice system of the state, in this case Kenya need to engage this customary justice institution constructively and meaningfully to provide a formal recognition framework for it, so that its decisions on resources management tenure and conflict resolutions are binding upon the state or any other party.

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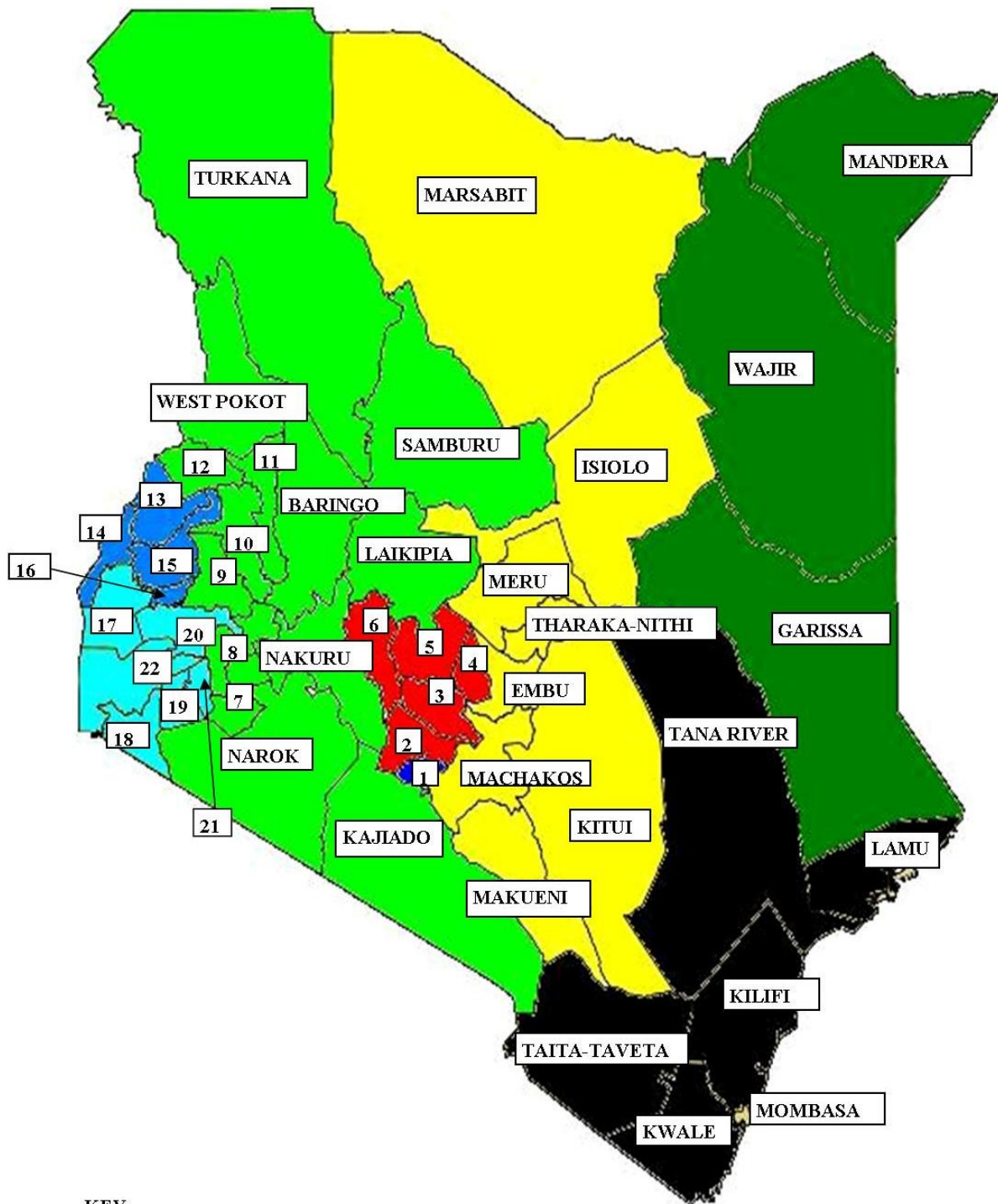
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## List of Abbreviations

ADG	African Dryland Governance
AFD	Action for Development
ACF	Action Contra la' Faim
ASE	Agri-Service Ethiopia
CAP	Conservation Action Planning (of TNC)
CAP	Chapter (of Laws of Kenya)
CBO	Community- based Organisation
CCI	County Council of Isiolo
CPC	County Peace Committees.
CORDAID	Catholic Organization for Relief and Development Aid
DFID	Department for International Development (UK)
EAPDA	Ethiopian Agro-Pastoralist Development Association
ECHO	European Commission Humanitarian Aid Office
FAO	Food and Agriculture Organization of the United Nations
ESARO	East & Southern Africa Regional Office (of IUCN)
HoA	Horn of Africa
GT	Garba Tula
GTF	Governance and Transparency Fund (of DfID)
IUCN	International Union for Conservation of Nature and Natural Resources
KFS	Kenya Forest Service
KLA	Kenya Land Alliance
KWS	Kenya Wildlife Service
NGO	Non- governmental organization
NR	Natural resources
NRM	Natural resource management
RAP	Resource Advocacy Programme
RUA	Rangeland Users Association
TNC	The Nature Conservancy (USA)
WRUA	Water Resource Users Association
WSP	Water Service Provider
WRUAs	Water Resource User Associations



**Kenya Map showing the location of the Borana's Marsabit County**

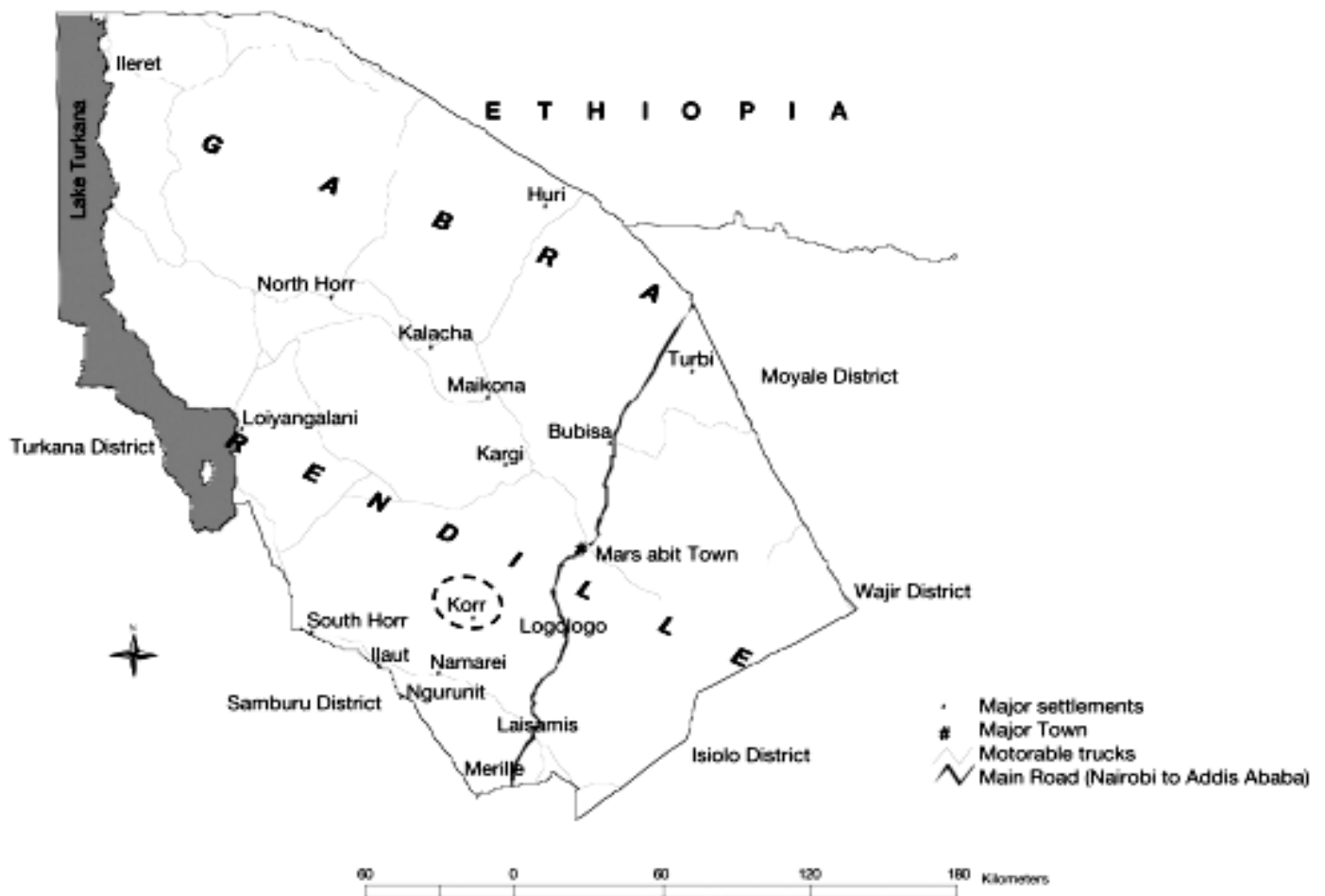


**KEY**

- |              |                     |              |              |
|--------------|---------------------|--------------|--------------|
| 1. NAIROBI   | 8. KERICHO          | 15. KAKAMEGA | 22. HOMA BAY |
| 2. KIAMBU    | 9. TRANS NZOIA      | 16. VIHIGA   |              |
| 3. MURANG'A  | 10. UASIN GISHU     | 17. SIAYA    |              |
| 4. KIRINYAGA | 11. ELGEYO-MARAKWET | 18. MIGORI   |              |
| 5. NYERI     | 12. NANDI           | 19. KISII    |              |
| 6. NYANDARUA | 13. BUNGOMA         | 20. KISUMU   |              |
| 7. BOMET     | 14. BUSIA           | 21. NYAMIRA  |              |

Source: Kenya's Wikipedia: Accessed on Sept 2015

## Marsabit County Map showing the geopolitical boundaries



Source: factsreports.revues.org: Accessed in Dec 2014

## CHAPTER ONE

### Background and Introduction to the Study

#### 1.0 Introduction

The Republic of Kenya and its neighboring states have experienced different types of cross-border conflicts from independence to the present day<sup>1</sup>. These conflicts range from internal disputes between different groups in Kenya to cross-border confrontations with groups from neighboring countries like Ethiopia, Uganda and Sudan, coupled with spillover effects from regional conflicts in the greater Horn of Africa. These conflicts manifest themselves violently and nonviolently.

The causes of the conflicts are many and complex, including poor governance, poverty, drought, famine, competition for scarce resources, and identity-based rivalries. These conflicts have caused extensive local crises, drawn heavily on military resources, and have had an adverse impact on economic development in the region. The impact of violent conflict has manifested itself psychologically, physically, and economically, going beyond the material and affecting the lives of thousands of women, children, and men. In fact, for many Kenyans and Ugandans, this is the form of terrorism or ethnic terrorism, they most worry about. Traditional morality has collapsed following a rupture in the structure of social relations on which peoples' lives were hinged. Traditional morality has collapsed following a rupture in the structure of social relations on which peoples' lives were hinged. The Borana, Rendille, and other pastoral communities within the study area strive to keep some livestock and those fortunate few who have incomes from trade and regular employment continue to invest in livestock.<sup>2</sup>

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<sup>1</sup> Van Zwanenberg, R. M. J. and A. King. (1975). *The Colonial History of Kenya and Uganda*. Nairobi: East Africa Bureau.

<sup>2</sup> Markakis, John, et al (eds) (1993): '*Ethnic Conflict and the State in the Horn of Africa.*' *Ethnicity and Conflict in the Horn of Africa*, Athens: Ohio University Press p 147-148

Pastoralists raise different types of livestock.<sup>3</sup> The characteristics of the animals and local environmental conditions determine the number and composition of the herds. Pastoral production systems are, by and large, a product of climatic and environmental factors. The objective of the pastoralist is to accumulate and maintain as much wealth as possible in terms of livestock. Pastoralists have been able to eke out a living from the harsh and unpredictable environment for centuries. In their long history, livestock provided not only a valuable source of food, but also acted as a reserve of wealth, a redeemer from damage, a sacrificial gift, and a means of marriage and other ceremonial payments.<sup>4</sup>

Conflicts have political, economic, social, and cultural implications and contribute to the lowering of economic productivity, weakening of political institutions of governance, incapacity to provide essential services, destruction and depletion of existing resources, loss of food production, and capital flight. It may be possible to measure the cost of conflict in economic terms by assessing the loss of potential foreign and domestic investment due to fear of crime and insecurity, loss of income from tourism, and losses in government sectors like agriculture. Other direct consequences of violent conflict are the influx of refugees and internally displaced persons (IDP) from neighboring countries into Kenya.<sup>5</sup> This is further complicated by the prevalence of small arms and light weapons in major towns and in pastoral areas in northern, northeastern, coastal and western Kenya along its international borders. This phenomenon is aggravated by neighboring civil wars and regional drought.

The border areas of Kenya and its neighboring countries have, over a long time, been a major arena for a variety of low-intensity conflicts, some of which are linked to wider cross-border and regional conflicts. The roots of these conflicts are ecological. A history of economic and social marginalization looms large in all border conflicts within the Horn of

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<sup>3</sup> Gulliver, P.H. (1955). *The Family Herds: A Study of Two Pastoral Tribes in East Africa*, The Jie and Turkana. London: Routledge and Kegan Paul. P 40-42

<sup>4</sup> Ibid

<sup>5</sup> Eaton, David. (2008). *The Business of Peace: Raiding and Peace Work Along the Kenya-Uganda Border (Part II)*. P 32

Africa.<sup>6</sup> Increased competition over resources, reduced access to land, water, and other natural resources due to increasing demographic and environmental pressure from within and without, and reduced access to credit, markets, and extension services that culminate in poverty, all play a role. This thesis will try to analyze the history of these conflicts, the evolution of government policies, the efforts made by non-governmental organizations (NGOs) and the Interagency Organization (IO), peace initiatives, and possible deterrence measures to bilaterally curb this menace.

Pastoral management systems in eastern Africa have developed over the last three to four thousand years by the indigenous groups of pastoral peoples living in the region, whose livelihoods depend on livestock. These traditional and often sustainable ways are now being threatened by agricultural development, the need to produce more food from marginal lands, population growth and global climate change. Fluctuations in rainfall and drought are recurring problems in the rangelands of the region and 70 million people in the Horn of Africa, many of whom are pastoralists, suffer from long-term chronic food insecurity.<sup>7</sup> Poverty levels are high, with more than half of the people in the region surviving on less than US\$ 1 per day. The population of the region has doubled since 1974, and it is predicted to increase another 40 percent by 2015.<sup>8</sup> Against this background, the traditional ways of pastoralists continue to change, and many are settling (or are settled) and diversifying their income-generating activities into crop production, wage labour and other activities, while other family members continue to herd the family stock and move to follow the availability of forage.<sup>9</sup>

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<sup>6</sup> Taddia, Irma. (1995) Reviews -- *Conflict and Peace in the Horn of Africa: Federalism and its Alternatives* edited by Peter Woodward and Murray Forsyth/il corno d'Arcy della storia e nella politica by giampaolo cal chi novati. p 528.

<sup>7</sup> FAO. (2000). *Proceedings Electronic Conference on Addressing Natural Resource Conflicts through Community Forestry*: Rome.

<sup>8</sup> ibid

<sup>9</sup> Saverio Krätli and Jeremy IDS Workshop:(22 April 1999): *Swift Understanding and Managing Pastoral Conflict in Kenya* undertaken under DFID contract CNTR 98 6863 Institute of Development Studies University of Sussex, UK

## **1.2 Statement Problem**

Pastoral conflict has grown rapidly in the Horn of Africa (HOA) in the last three decades, and among the most vulnerable areas in Kenya is the North Eastern Region. Conflict is now widespread in the arid and semi-arid zones, and often overlaps with extreme food insecurity. Many local civil society organizations have programmes to manage conflict, and international NGOs, intergovernmental organizations and donors are increasingly preoccupied with understanding conflict and experimenting with solutions.

Over the years, pastoralists and agro-pastoralists communities in Kenya have endured a myriad of problems ranging from socio-economic marginalization to severe and frequent conflicts over natural resources. Of these problems afflicting this segment of populations, conflict has been singled out as the main bottleneck to the development of these rangelands that accounts for over 80% of the total Kenyan land mass. There is an urgent need for a stocktaking of our present analysis of conflict, and the lessons we can draw from experience so far of conflict mediation and management. This literature review of pastoral conflict in northern Kenya with a focus on Borana Community is designed to map the state of knowledge, to identify important gaps in understanding, and to suggest promising avenues for future practical work.

For decades the viability of livelihood systems in the region has been weakened for a number of reasons, including the erosion of pastoralist institutional arrangements around natural resources management. This is in part due to state policies and actions that have not recognised the right of the pastoralists to own or manage their rangelands, and have therefore ignored their institutional system. The expropriation of parts of the rangeland is one reason why their livelihoods have lost some resilience, and thousands have been pushed out of pastoralism, forced to settle in or around urban centres and compelled to look for alternative

livelihood opportunities. Although support for people in pastoral communities to pursue alternative (and complementary) livelihoods is badly needed, pastoralism remains the most resilient and economic use of the rangeland. But for pastoralism to remain a viable livelihood option, and one which continues to contribute millions of dollars to exports and to national economies, institutional arrangements around natural resources and land management need to be better supported, including institutions for cross-border mobility.

These institutional aspects, including land rights, have rarely been given the necessary attention in national policy-making. This is in part the outcome of broader attitudes and policies towards pastoralism. For policy-makers pastoralism is often linked to backwardness and poverty, which should be ‘solved’ with the sedentarisation of pastoralist communities. In many cases governments have failed to recognize the very existence of customary institutional arrangements; in other cases such arrangements have been sidelined and undermined. There are a very limited number of national policy documents in Kenya and Ethiopia that mention issues related to the cross-border sharing of natural resources and livestock mobility. Ongoing sharing arrangements around natural resources currently take place in a legal and policy vacuum, and so depend more on the attitudes of individual local government officials. The consequences have been serious: conflict and tensions in pastoralist areas have escalated, rules and practices around natural resources management have been eroded and pastoral livelihood systems have been further weakened.

Since the late 1990s, some external interventions in the study area have sought to strengthen customary institutional arrangements, particularly for conflict management. Some organisations have supported the establishment of cross border committees. Cross border committees involve representatives of both state and customary institutions, and they operate by blending formal (state) and informal (indigenous) rules and mechanisms in a hybrid structure. Although they have no official status, some are taking on roles as authorities in

natural resource management, and are becoming the structures through which some communities are negotiating or claiming rights to access grazing land and water sources. Since state institutions cannot possibly govern rangeland management, and since customary authorities are being undermined by state officials, such hybrid institutional arrangements could represent a compromise, offering what some pastoralists called a ‘modern’ approach to cross-border rangeland management.

### **1.3 Research Objectives**

The overall objective of this study is to examine the question of Pastoralism and Conflict Management in the Horn of Africa (HoA). Specifically the study:

- 1.3.1 Discusses the historical antecedents to the conflicts among the Borana
- 1.3.2 Identifies the actors in the conflicts, their aim, and benefits.
- 1.3.3 Examines the causes, effects of these conflicts including interventions to resolve them.
- 1.3.4 Examines the intervention measures taken to manage conflicts among the Borana community
- 1.3.5 Recommend on what need to be done to curb these conflicts.

### **1.4 Research Questions**

In conducting this analysis, the study addresses the following questions:

- 1.4.2 What is the historical background of the pastoral conflict among the Borana?
- 1.4.2 Who are the actors in these conflicts? What is their aim and what benefits do they get?
- 1.4.3 What are the causes and effects of these conflicts?
- 1.4.3 What measures has been undertaken to resolve conflicts of Borana community?

### **1.5 Hypotheses**

- 1.5.1 Political and traditional practices are a hindrance to the conflict management mechanisms among the Borana community.



1.5.2 Weak normative and Institutional mechanism largely explain the persistence of pastoral conflicts in Borana Community.

## **1.6 Study Justification**

### **1.6.1 Academic Justification**

There has recently been a great deal of attention paid in the literature to the issue of local participation in natural resource management in Africa.<sup>10</sup> This study illustrates that community participation is a critical component of efforts that attempt to cause positive economic and ecological change in African communities. This study contributes to the growing literature on community management of natural resources by presenting information on such a program in a pastoral area of northern Kenya. It illustrates how local participation led the natural resource management project to take an unexpected route to achieving positive economic and ecological change by encompassing issues of conflict management.<sup>11</sup>

This study also contributes to the literature on common property management in risky production environments. As is increasingly understood, the finding that common property management regimes function best with clearly defined boundaries and membership<sup>12</sup> is in conflict with the finding that such clear definitions can be welfare reducing in highly variable environments.

This has led to a recent and growing interest in pastoral development efforts that strengthen management structures while still providing for flexibility in land use patterns.<sup>13</sup> This study identifies some of the promise and notes some of the challenges of conducting such an effort to build land use management plans on existing social structures.

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<sup>10</sup> Ribot, J. (2002). *Democratic Decentralization of Natural Resources: Institutionalizing Popular Participation*. World Resources Institute. Washington, DC.

<sup>11</sup> Barrett, C., K. Brandon, C. Gibson, and H. Gjertsen. (2001). *Conserving Tropical Biodiversity amid Weak Institutions*. BioScience 51(6): 497-502.

<sup>12</sup> Ostrom, E. (1992). *Crafting Institutions for Self-Governing Irrigation Systems*. Institute of Contemporary Studies, San Francisco.

<sup>13</sup> Fernandez-Gimenez, M. (2002) *Spatial and Social Boundaries and the Paradox of Pastoral Land Tenure: A Case Study from Postsocialist Mongolia*. Human Ecology 30(1): 49-76.

This study also contributes to a growing literature on the relationship between environmental variables and conflict. It is recognized in the literature that natural resource management and conflict management are closely related.<sup>14</sup> The literature to date has largely focused on how environmental scarcity leads to increased conflict and how natural resource management plans can be designed to manage conflict.<sup>15</sup> The current study provides a different perspective on the relationship between environmental variables and conflict as it illustrates how conflict management can be a precondition for implementing a resource management plan. This approach also reflects some of the findings in the recent literature on development efforts in insecure pastoral areas. It is increasingly recognized that addressing insecurity is a critical first step for any development efforts designed to improve pastoral welfare in such areas.<sup>16</sup>

### **1.6.2 Policy Justification**

As illustrated here below, what began as a program to improve the wellbeing of pastoral populations through improving resource management evolved to become a program that focused on reducing insecurity, thus both enhancing wellbeing and allowing the potential for improved environmental management. An important element of the case study presented is that adoption of a community driven approach led the implementing agency to confront issues of conflict management that they had not anticipated in their original program design.

## **1.7 Literature Review**

The ability of pastoral populations in east Africa to manage their own resources has long been viewed with skepticism. In large part, this skepticism results from the view that pastoral production is the cause of degradation and desertification, due to the inherent

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<sup>14</sup> Op Cit

<sup>15</sup> Op Cit

<sup>16</sup> Kenya Human Rights Commission. (2000). *The Forgotten People Revisited*. KHRC: Nairobi.

incentive problems of common property production and the cultural values of pastoralists.<sup>17</sup> Due to the nature of the production system and the cultural context of production, it has been proposed that herders will accumulate more animals than is optimal from an environmental perspective.<sup>18</sup>

As the nature of pastoral production is posited as the underlying cause of degradation, this perspective holds out little hope that the pastoral population will be capable of addressing rangeland degradation. Barnes (1979) argues “The future of large tracts of Africa thus depends, in the first instance, on drastic changes in traditional attitudes towards land-use among relatively unsophisticated and uneducated indigenous peoples. They can only be brought about by concerted and well-planned programs of rural reform and education.”<sup>19</sup> Walker (1979) supports the view that such programs will require direction from outside the pastoral sector.<sup>20</sup> He argues that since people with initiative and high capabilities are attracted away from semi-arid regions to higher potential zones,

“...semi-arid ecosystems have, therefore, often been managed by a segment of the population which constitutes the least capable, least innovative group, often disinterested in what they are doing, but not capable of changing their circumstances.”

The current study provides a different perspective on the relationship between environmental variables and conflict as it illustrates how conflict management can be a precondition for implementing a resource management plan. This approach also reflects some of the findings in the recent literature on development efforts in insecure pastoral areas. It is increasingly recognized that addressing insecurity is a critical first step for any

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<sup>17</sup> Jarvis, L. (1980). *Cattle as a Store of Wealth*: Comment. *American Journal of Agricultural Economics* 62(3). p. 606-13

<sup>18</sup> Pratt, D. , F. Le Gaal, and C. de Haan. (1997). *Investing in Pastoralism: sustainable resource use in arid Africa and the middle east*. World Bank Technical Paper # 365. World Bank, Washington, D.C.

<sup>19</sup> Barnes, D. (1979). *Cattle Ranching in the Semi-arid Savannas of East and Southern Africa*. p 54.

<sup>20</sup> B. Walker (Ed.). *Management of Semi-arid Ecosystems*. *Elsevier Scientific*: The Netherlands. p 9

development efforts designed to improve pastoral welfare in such areas.<sup>21</sup> As will be illustrated in the paper, what began as a program to improve the wellbeing of pastoral populations through improving resource management evolved to become a program that focused on reducing insecurity, thus both enhancing wellbeing and allowing the potential for improved environmental management.

In determining whether conflict resolution is appropriate, an important consideration is whether it results in a better situation than if the conflict is allowed to take its natural course. Conflict is not always negative; it may be a necessary stage in progress towards a better state of affairs. It may galvanize community organizations, put important issues on the public agenda and ultimately help to bring about essential societal and institutional changes that may result in a more equitable and sustainable use of resources. It is arguable that, if conflict is nipped in the bud, these important benefits may be lost. Early intervention in a dispute, for example, could be used as a mask behind which powerful interests work to advance their own interests.

It is also important to distinguish between the underlying causes of conflict and the symptoms of the conflict. Sometimes a conflict may appear to have been resolved, when in fact only the manifestation of the conflict has been removed. If the police break up a violent demonstration, for example, they are removing the manifestation of a conflict between the demonstrators and the object of their demonstration, but the root causes of the conflict remain, possibly to re-emerge at a later stage. To resolve a conflict properly, it is necessary to address the concerns of the conflicting parties and seek solutions that will maximize the benefits to them in the long as well as the short term.

Those responsible for making and implementing pastoral conflict management policies and programmes may have a variety of reasons for intervening to resolve conflicts.

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<sup>21</sup> Kratli, S. and J. Swift. (1999). *Understanding and Managing Pastoral Conflict in Kenya: A literature review*. mimeo. Institute for Development Studies, University of Sussex.

These include: Promoting better and more sustainable utilization of natural resources. If a conflict arises from the competitive or antagonistic use of a resource by more than one party, the process of conflict resolution may lead to the discovery of solutions that can lead to the resource involved being utilized more sustainably and optimally, promoting equity. Equity or 'fairness' is a relative concept and hard to define in general terms, but it can be an important reason for resolving conflicts and is also considered to constitute an important element of sustainable development.

It implies fairness to present and future generations in the way the earth's environmental resources are managed and passed on, avoiding unwanted consequences, promoting social stability, which can result from the resolution of a conflict, through the avoidance of undesirable consequences (such as those referred to above) and by promoting a sense of fairness among the parties to the conflict. Where conflicts are resolved using collaborative techniques, involving the interested parties in the search for solutions, the outcome is usually more satisfactory to the parties and therefore more easily enforced and workable in practice. If conflicts are left to end in violence or litigation, however, feelings of resentment and revenge may remain and give rise to a recurrence of conflict in the future.

## **1.8 Conceptual Framework**

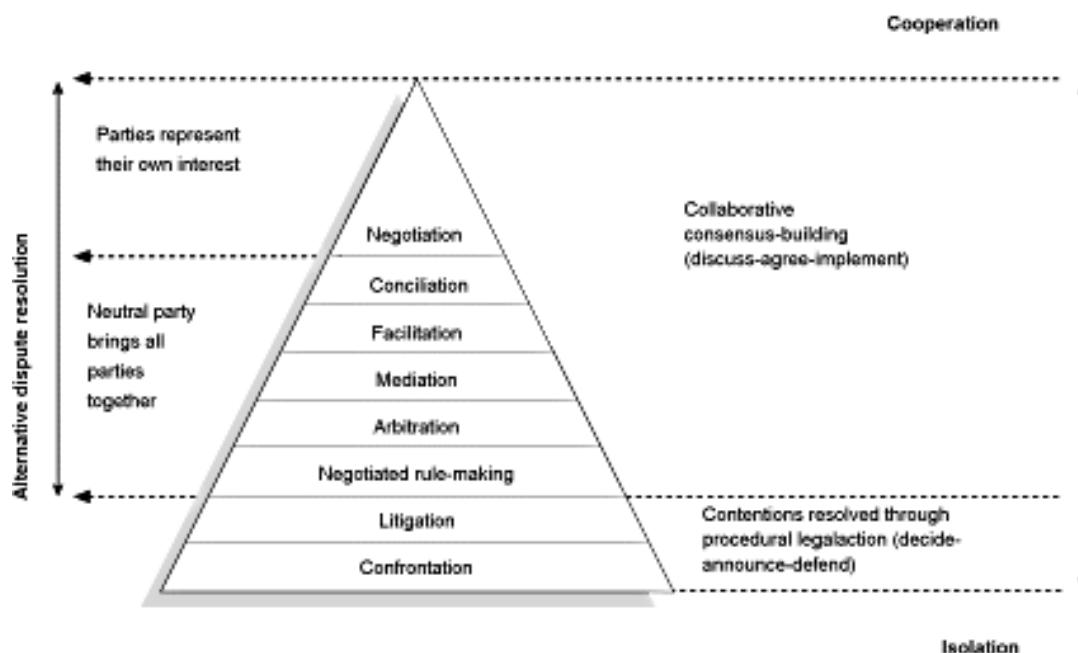
There are a number of ways of dealing with a conflict, ranging from violence at one extreme to ignoring the conflict at the other, with a variety of approaches in between. Towards the more hostile end of the spectrum is litigation, in which parties take their grievances to a court or tribunal which applies predetermined legal rules to the conflict and issues a decision that is binding upon the parties, producing a winner and a loser. However, parties are turning increasingly to Alternative Dispute Resolution (ADR) techniques to settle their disputes. These include negotiation, mediation and conciliation, which are more flexible and produce results that are more acceptable to the parties as well as more sustainable in the

longer term. ADR is being used increasingly in conflicts over the environment and natural resources and has considerable advantages over traditional contentious methods. Some analysts have used the concept of a mountain to symbolize the range of options faced in managing conflicts and explained it as follows:

At the summit of the mountain is cooperative teamwork, with the goal of achieving a synergy of solutions of mutual advantage to all interests. At the base of the mountain, from where any climb has to begin, are isolation, the decision not to engage in the debate at all, and confrontation, in which positions have been adopted in fixed opposition to one another.<sup>22</sup>

From isolation and confrontation at the base of the pyramid the options progress through the stages of litigation, arbitration, mediation, facilitation, conciliation, negotiation, and on to cooperation at the top (see Figure 1).

**FIGURE 1**



The term 'conflict resolution' has been described as *'a process by which two or more conflicting parties improve their situation by cooperative action allowing the parties to*

<sup>22</sup> Brown, L. (1971). *The Biology of Pastoral Man as a Factor in Conservation*. Biological Conservation. 3(2): 93-100.

*expand the pie, or to prevent it from shrinking, giving each party a larger slice'*. This definition highlights the fact that conflict resolution aims to bring about benefits for the parties. It does not simply mean the cessation of conflict; if it did, it could include war and litigation, but war and litigation usually leave one, if not both parties, worse off. A common way of conceptualizing the process is to ask whether the conflict is a 'zero-sum game', in which gain for one party causes loss for another, or a 'plus-sum game', which creates the possibility of 'win-win' solutions in which both parties gain overall through collaborative effort.

Conflict resolution through cooperative action aims to find win-win solutions and leave both parties better off with the outcome. However, it may not always be the best option for all the parties. In some situations a party may actually capture the largest share of the benefits through unilateral action. Some dispute resolution theorists refer to this as a party's 'best alternative to a negotiated settlement', or BATNA. If a party's BATNA is better than any collaborative outcome, it will have no incentive to explore options and possible solutions collaboratively, but will instead simply pursue unilateral action.

## **1.9 Research Methodology**

### **1.9.1 Case Study**

The case study approach as a detailed examination of an aspect of a historical episode to develop or test historical explanations that may be generalizable to other events has come in and out of favor over the past decades as researchers have explored the possibilities of statistical methods (which excel at estimating the generalized causal weight or causal effects of variables) and formal models (in which rigorous deductive logic is used to develop both intuitive and counterintuitive hypotheses about the dynamics of causal mechanisms). Perhaps because case study methods are somewhat intuitive, they have in some sense been around as long as recorded history. The systematic development of case study methods for the

cumulative building of social science theories is a comparatively recent phenomenon. Only in the past three decades have scholars formalized case study methods more completely and linked them to underlying arguments in the philosophy of science.

Indeed, statistical methods have been so prominent in recent decades that scholars' understanding of case studies is often distorted by critiques based on the assumptions of statistical methods. It is argued that while case studies share a similar epistemological logic with statistical methods and with formal modeling that is coupled with empirical research, these methods have different methodological logics. Epistemologically, all three approaches attempt to develop logically consistent models or theories, they derive observable implications from these theories, they test these implications against empirical observations or measurements, and they use the results of these tests to make inferences on how best to modify the theories tested. Methodologically, these three methods use very different kinds of reasoning regarding fundamental issues such as case selection, operationalization of variables, and the use of inductive and deductive logic. These differences give the three methods complementary comparative advantages. Researchers should use each method for the research tasks for which it is best suited and use alternative methods to compensate for the limitations of each method.

### **1.9.2 Data Collection**

The research methods employed in this thesis involve the use of primary sources i.e. personal interviews was conducted both in the sampled areas and data from secondary sources was used.

### **1.9.3 Data Analysis and Data Presentation**

The analysis draws on a wide spectrum of views from individuals, organizations, and institutions, both governmental and non-governmental. It is my intentions that this document will contribute to decision making regarding inter communal conflicts. In this paper I will



employ the ethnographic analysis as discussed by Merriam (1998). This approach involves identifying categories related to a culture's economy, demographics, human life, particularly family, education and health issues and the environment.

### **1.10 Organization of the Study**

Chapter One focuses on Introduction and Background to the Study: It lays out the general description of the inter-communal conflict within the context of the broader East Africa with a particular focus on the study area: Borana Community in Marsabit County. The chapter introduces the background, statement of the problem, objectives of the study, research questions, significance of the study, scope of the study and limitations, literature review, theoretical framework and research methodology. Chapter Two deals with the historical background of the pastoral conflict among the Borana: This chapter highlights the nature of the area under study and discusses Pastoralism, traditional and modern pastoralist resources, and the Borana Community's involvement in pastoral conflict. Causes of conflicts in the area are highlighted in this chapter.

Chapter Three: Social-economic effects of conflicts and measures taken by the Borana people to mitigate these conflicts. This chapter also focuses on the socio-economic effects of the perennial conflicts to Borana people and also looks at the traditional measures undertaken by the community to find local solutions to these problems. Chapter Four examines the intervention measures taken to manage conflicts among the Borana community. Community management mechanisms both local, national and international of natural resources with Borana community is highlighted in this chapter. Analysis of the involvement of the Borana people in these initiatives towards resolving conflicts, other actors in these resolution mechanisms and approaches, government involvement and its mechanism towards resolving resource conflicts are discussed. Chapter Five: Summary, Conclusions and Recommendation.

This chapter summarizes the key issues raised during the research and will offer recommendations that may help Borana community through direct and indirect approaches.

## **CHAPTER TWO**

### **The Historical Background of the Pastoral Conflict among the Borana:**

#### **2.0 Introduction**

There has recently been a great deal of attention paid in the literature to the issue of local participation in natural resource management in Africa.<sup>23</sup> This study illustrates that community participation is a critical component of efforts that attempt to cause positive economic and ecological change in African communities.

Conflicts involving pastoralists were generally quite straightforward in terms of their causes and manifestations. They were localized both in terms of the protagonists and their overall impact. It was thus possible to resolve them using community mechanisms. However, currently conflicts are much more complex in their causes and involve many more players, some of them situated long distances away from the locations of conflict. This is true of the conflicts involving the Borana and their neighbors.

The major causes of conflicts between different ethnic groups in Borana Zone are identified by most informants to include: disputes over political and administrative boundaries and borders (between regions/zones), competition over resource, ethnic or clan rivalries, weakness of governance and rule of law structures, communal revenge attacks, cattle raids and counter-raids. The differences over political and administrative boundaries are the most important factor in conflicts between the Borana and the Garre, while ethnic rivalries and revenge are the most important factor as between the Borana and the Gabra. Competition for access to resources is blamed for conflicts between the Borana and the Konso who are farmers.

Conflicts between the Borana and the Garre that are engendered by disputes over political and administrative boundaries are blamed largely on competing elite interests.

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<sup>23</sup> Turner, M. (1999). Conflict, Environmental Change, and Social Institutions in Dry land Africa: Limitations of the Community Resource Management Approach. *Society and Natural Resources* 12: 643-657.

Politics motivated dispute over administrative territory dispute. The elite of the two communities instigate conflicts between their communities to push the agenda for competition for political dominance. Communities are effectively used as proxies in the pursuit of the political agenda of the respective elites. In the process an expansionist agenda is pursued by both communities. Control of the economy and through it the politics of Negelle and Moyale are part of the strategies pursued by the elite in this regard.

Whatever the causes of the conflicts may be, their persistence is blamed on the failure of governance and the rule of law. On the one hand, traditional governance systems have been weakened by statutory structures. On the other hand, modern structures of government are not adequately represented within pastoral areas and are thus ineffective in containing conflict and enforcing the rule of law. Informants complained that when disputes arise, there is no prompt response by the authorities in charge of security. In some cases, government institutions are ineffective because they are seen to take sides in disputes and conflicts.

## **2.1 The Borana Community**

The Borana Community resides in Marsabit County in the Eastern region of Kenya. It borders Ethiopia and Moyale County to the north, Lake Turkana and Turkana County to the west, Samburu County to the south and Wajir and Isiolo Counties to the east. The County is the second largest in the country after Turkana County. The estimated population is 125,000. Approximately 75% of the County is classified as rangelands and main mode of land use is extensive grazing. The County is a home to a number of ethnic groups like Boran, Gabra, Rendille, Samburu, Ariaal, Turkana, Burji and Dassenetch. Alliances and hostilities vary from community to community and change over time. The pastoral groups considered in this paper live in the arid and semi-arid areas of this County and are interrelated in a variety of ways. Rendille and Gabra tend to specialize in camel, goat and sheep Pastoralism, and their livestock are highly mobile.

Borana, Samburu, and Ariaal focus more on cattle production in higher rainfall areas, and are less mobile than camel based pastoralists. Gabra, Rendille, and Borana are Cushitic languages and Samburu and Turkana are Nilotic languages. Rendille and Gabra share cultural practices and clan histories. Rendille and Samburu are linked by a history of cooperation, the outgrowth of which is seen in the Ariaal group who combine elements of both Rendille and Samburu culture.<sup>24</sup> All groups in Marsabit County have faced severe challenges in the past thirty years. Beginning around 1970, there has been a growth of population in permanent settlements in this County that have grown up around water points. Households that were nomadic prior to 1970 have settled for a variety of reasons.

One is the loss of animals in droughts that were experienced in 1969-1973, 1980, and 1984 leading to household herd sizes insufficient for maintaining mobility. A second reason is the increased provision of public services in towns, such as health centers, schools, and food aid as well as the increased economic opportunities offered by towns. Finally, insecurity has led to settlement and concentration of grazing in areas around towns as regions that were formerly used as grazing areas are no longer possible to use given the threat of armed raids. People settle in and around towns to provide mutual security.

## **2.2 Inter-communal Conflicts within Borana Community**

The more detailed conflict analysis of the study captures concerns between ethnic in the six counties: Sololo, Chalbi, Marsabit, Moyale (Kenya) and Moyale and Miyo in Oromia (Ethiopia)<sup>25</sup>. Despite its incongruence with the customary land tenure system, county is a sizeable administrative unit for conflict analysis as it provides a visible inter-connectivity between groups and across the Ethio-Kenya borders and boundaries. It is also convenient for

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<sup>24</sup> Fratkin, E. (1991) *Surviving Drought and Development: Ariaal pastoralists of northern Kenya*. Conflict and Social Change series. West view Press: Boulder.

<sup>25</sup> Integrated Agriculture Development Consult (IADC) (Dec 2008): *Assessment and conciliation report on: Existing Approaches and Best Practices in cross Border Peace Building and conflict Mitigation and strengthened CSOs across the Ethio-Kenya Border* by: Addis Ababa. p 20-42.

the purposes of planning and implementation of peace building activities. This assessment describes the intervening factors within the framework of the underlying and proximate and structural causes of conflict. A general observation at the local level is provided below:<sup>26</sup>

### **2.2.1 Gabra and Borana**

Informants from both groups believe on the common ethnology and culture including marital relationships. They speak the same language, they have cultural similarities and experience intermarriage. Today, the major point of tension appears to be the conflict between the Borana and the Gabra (from Oromia Region in Ethiopia, down through Moyale and Marsabit in Kenya)<sup>27</sup>. This struggle over ethnic identity and independent territory, and the resultant dispute over land, is a major destabilizing factor. In addition to the claim for border demarcation to formalize the colonial boundary, politicization of ethnicity and the influence of elite groups that started around the 70s are believed to be the root cause of the conflict between Gabra and Borana.

A series of claims and counter claims, accompanied by raiding and sporadic killing erupted in July 2005 with major human fatality and loss of livestock (76 persons and thousands of livestock). Although a number of peace initiatives have taken place and the levels of violence has reduced for now, the accrual of resolutions not yet implemented and the ‘grievances’ not yet addressed are still worrying. In this regard, the efforts being made by third parties in building local capacities among the communities to follow up and transform the conflict are vital. The urgency of the situation requires a bilateral political commitment from the Ethiopian and Kenyan governments to complement the efforts of NGOs and to sustain them over time. In the cultural setting, it is almost certain that if issues are left un-addressed conflict can reoccur in the future.

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<sup>26</sup> Haro, G. (1999). Inter-Ethnic Environmental Management Committees and Leaders Conference on Resource Use Dispute Management – Loiyangalani. MDP-GTZ in collaboration with the Kenyan Ministry of Agriculture. Marsabit, Kenya.

<sup>27</sup> Ibid

### **2.2.2 Borana and Garri**

According to informants, the history of conflict between the two ethnic groups traces back in the 1930s when the Italians had upper hand in the area.<sup>28</sup> Among the factors contributing to conflict assessed, the root cause of the conflict between Borana and Garri Somali is believed to be claims for historical and territorial claim. The line between the Somali border to the east and the Borana grazing areas to the west is becoming increasingly contested. The animosity between these groups is not only the product of land demarcation which suddenly shifted land ownership and use right as first stipulated in the Ethiopian Transitional Government Charter (TGE, 1991:18) and later adopted in the Constitution of the Federal Democratic Republic of Ethiopia (FDRE, 1995).

In Kenya, because of pressures on pasture and land, there is a gradual ‘push’ of the Somali clans westwards, despite Borana resistance. Lack of resolution over the administrative and boundary tensions between the Oromia and Somali, and the Garri management of regulated access for Borana El-lay and El-Gof traditional wells and pasture, is a volatile situation. This is a trend that many informants believed is known to the authorities who seem either indifferent or intend not to intervene. In addition, the occurrence of conflict between Borana and Garri on the ground of opportunistic proximate causes, not related to water and pasture is a testimony for the grievance for the unresolved broader concerns.

### **2.2.3 Rendille and Borana**

In Northern Kenya, a sporadic conflict is observed between Rendille and Borana in response to traditional values and beliefs originating from time immemorial. More recently this conflict has been politically instigated by County Consolers who took opportunity to favor one group and disfavor the other. According to the informants from central Marsabit, the attitudinal inclination of the County Councilors (DC) towards Rendille and Gabra ethnic

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<sup>28</sup> Ibid

groups is believed to exacerbate the conflict between Borana on one hand and Rendille and Gabra on the other. Rendille affiliate former politicians have tried to bring Rendille towards Songa, Karari areas while Gabra affiliates are believed to have played a similar role. The Borana who are not represented at that time lost part of Karari, Logo logo, Hula Hula, Augicho areas, and were gradually pushed to the Mountainous areas. Eventually, Borana were on the losing end as they lost their property right although they still possess usufruct right. Thus accrual of ‘grievances’ by the Borana may erupt at any point in time unless conflict prevention activities are undertaken.

#### **2.2.4 Gabra and Rendille**

Recent conflict between the two ethnic groups was due to raid of 10 camels by Rendille from Gabra communities. The stolen camels have been returned to their owner and the situation returned to normal through peace dialogues made between customary institution leaders. Although, this is encouraging, the fact that raiding has been one of the common features of many pastoralists in Southern Ethiopia and Northern Kenya remain a negative intervening factor towards any peace process in the area.

#### **2.2.5 Burji and Borana**

Conflict between these ethnic groups started before long years ago, the major cause being killing and a vicious cycle of revenge which tended to build a tendency of consolidating animosity between the two groups. In relative terms, these groups have no deep rooted or structural problems; although a tailored peace building activities are required to stop any further conflict.<sup>29</sup>

Key connectors such as religion and languages seem to have mixed effect in reducing the probability of conflict between groups sharing them. Borana and Gabra speak the same language, but yet some religious leaders promote or undermine ethnic tolerance and co-

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<sup>29</sup> Ibid



existence. Although open violent conflict between Borana and Gabra has subsided after the Turbi massacre, in some areas, low level killings still continue. The latent nature of conflict and unmet structural causes means that there may be potential for conflict to re-emerge. Thus without addressing the major underlying causes of instability in the area, progress in terms of improved livelihoods may be constrained.

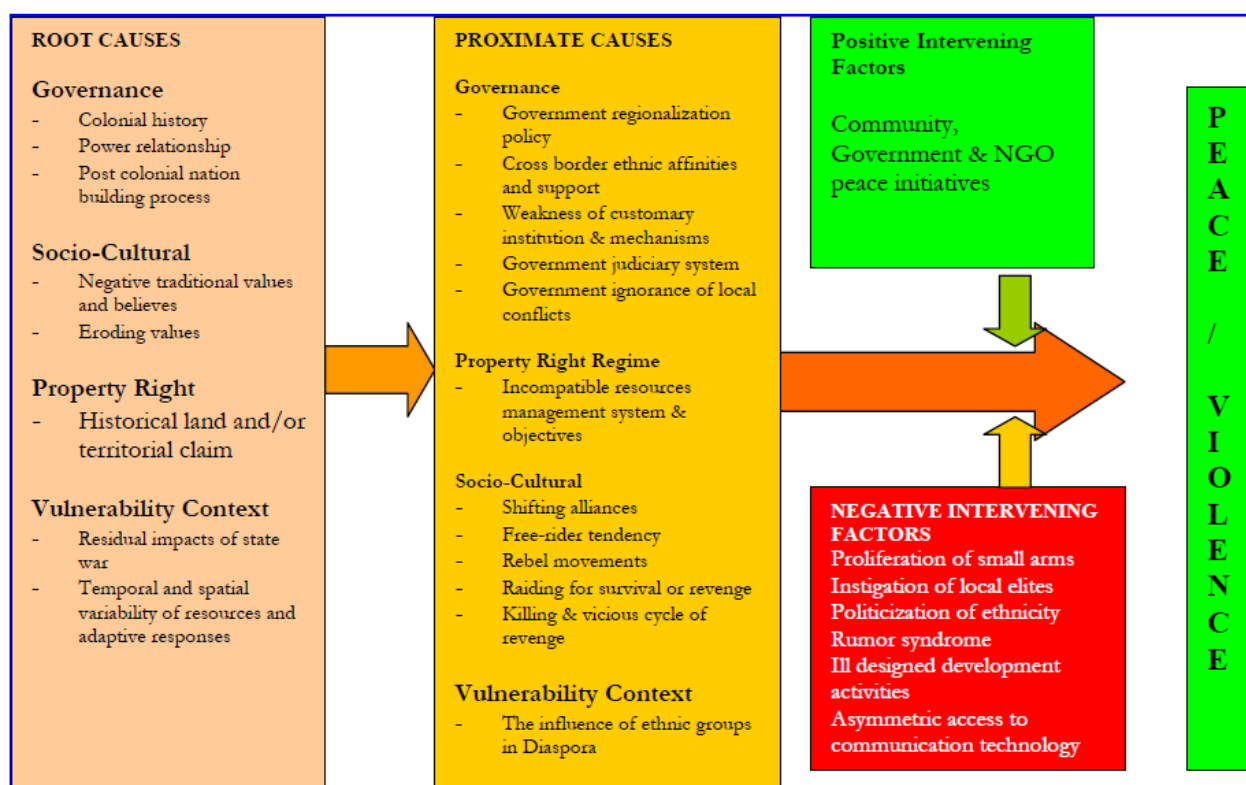
### **2.3 Factors contributing to violent conflicts in Marsabit County**

Although competition over resources is frequently cited as the cause of violent conflict in Southern Ethiopia and Northern Kenya, evidences from this assessment as well as similar studies elsewhere, show that it is more complex than one may imagine. The patterns of conflict in the Southern Ethiopia and Northern Kenya are complex. Different factors contribute to violent conflict and these factors tended to mutually reinforce each other. Structural factors embedded deep in the region such as long-standing border disputes, state building processes, shift in property right and ecological degradation conditions shape conflict over time although their effect is slow overtime. It was also observed that these factors have been used as entry points by elite groups. Ignoring these factors or trying to address the visible causes of conflict through legislative or other soft measures is mostly ineffective. Thorough understanding of the factors contributing to conflict at various levels contributes to conflicts resolution.<sup>30</sup>

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<sup>30</sup> Kratli, S. and J. Swift. (1999). Understanding and Managing Pastoral Conflict in Kenya: A Literature Review. Mimeo. Institute for Development Studies, University of Sussex.

**Figure 1: Structural Causes of Conflict at different levels**



Source: Assessment and Consolidation Report on Existing Approaches and Best Practices in Cross Border Peace Building and Conflict Mitigation and Strengthened CSOs Across the Ethio-Kenya Border By Integrated Agriculture Development Consult (IDAC) Dec 2009

In this assessment, the complex interplay of factors is summarized under the following headings to characterize the causes of conflict in the context of southern Ethiopia and Northern Kenya as follows:

### 2.3.1 Vulnerability of households

Asymmetric power relations within and between groups and exotic factors (e.g., drought) have made certain groups more vulnerable than the others. The relative abundance of resources among one group and its scarcity among the other is observed to result in a greater risk of conflict as the latter tries to restock herds from the latter. When more and more households become vulnerable due to environmental shocks or conflict itself, the likelihood of violent conflicts increases. In all areas visited by the assessment team, livelihood insecurity is conspicuous. In Kenya, for example, Increasing levels of poverty and idleness

tended to push some youth warriors to involve in commercial raiding and target livestock traders are affecting people's ability to take their livestock to the market.

### **2.3.2 Socio-Cultural Factors**

Some cultural values and beliefs, such as raiding and cattle rustling, or killing member of groups considered enemy have a long history and to some extent continued to be an aspect of traditional culture pastoralist in the Southern Ethiopia and Northern Kenya. As indicated in Table 1 on page 28, each segment of the community (elder, women, youth boys and girls) is socially gendered to contribute its part towards generating conflict. Such traditional conflicts have become increasingly destructive to potential or ongoing peace building efforts. For example, although a comprehensive peace declaration has been enacted by Borana and Gabra communities, raiding has continued.<sup>31</sup>

Some pastoralist groups for example, must kill contending group to get married or to get recognized and respected by the community. These factors have eroded social capital, undermined customary rules, increased mistrust and mutual suspicion and weaken cultural ties of the communities. Both Ethiopian and Kenyan local Government officials believe that breakdown in community values and lack of awareness on the mainstream secular legal system and its application as the main cause of the problem. Any peace building initiative should develop its intervention strategy to change the mindset of the community based on the barriers identified under each groups and using faith leaders as change agent.

As shown in Table 1 on page 28, violent attacks are blessed by elders and encouraged by women, many of whom want the prestige and benefits of becoming the wife of a warrior. According to the informants from others tribes the Rendille, a young man never feed from the hands of a women (even from his mother), rather escapes to the bushes unless he commits raid or killing in order to get privilege and respect from the community and proud as a great

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<sup>31</sup> Ibid

warrior. Circumcision, providing dowry culture to marry also insists to raid from other ethnic groups. This is the negative side of culture. Traditional initiation ceremonies put pressure on young men to prove themselves as killers and hunters and the culture of body markings allow the youth to parade their skills as warriors to garner the respect of the community. Heroism is becoming uncontrollable as external factors such as weapon commercialization facilitate and provide incentives for individual's violent behaviour.

## **2.4 Causes of Conflicts**

Traditionally, conflicts involving pastoralists were generally quite straightforward in terms of their causes and manifestations. They were localized both in terms of the protagonists and their overall impact. It was thus possible to resolve them using community mechanisms. However, currently conflicts are much more complex in their causes and involve many more players, some of them situated long distances away from the locations of conflict. This is true of the conflicts involving the Borana and their neighbours.<sup>32</sup>

The major causes of conflicts between different ethnic groups in Borana Zone are identified by most informants to include: disputes over political and administrative boundaries and borders (between regions/zones), competition over resource, ethnic or clan rivalries, weakness of governance and rule of law structures, communal revenge attacks, cattle raids and counter-raids. Of these, differences over political and administrative boundaries are the most important factor in conflicts between the Borana and the Garre, while ethnic rivalries and revenge are the most important factor as between the Borana and the Gabra. Competition for access to resources is blamed for conflicts between the Borana and the Konso who are farmers.<sup>33</sup>

Conflicts between the Borana and the Garre that are engendered by disputes over political and administrative boundaries are blamed largely on competing elite interests.

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<sup>32</sup> Michael Ochieng Odhiambo (February 2012): *Impact Of Conflict On Pastoral Communities' Resilience In The Horn Of Africa: Case Studies from Ethiopia, Kenya and Uganda*, Nakuru.

<sup>33</sup> Ibid

Politics motivated dispute over administrative territory dispute. The elite of the two communities instigate conflicts between their communities to push the agenda for competition for political dominance. Communities are effectively used as proxies in the pursuit of the political agenda of the respective elites. In the process an expansionist agenda is pursued by both communities. Control of the economy and through it the politics of Negelle and Moyale are part of the strategies pursued by the elite in this regard<sup>34</sup>.

Whatever the causes of the conflicts may be, their persistence is blamed on the failure of governance and the rule of law. On the one hand, traditional governance systems have been weakened by statutory structures. On the other hand, modern structures of government are not adequately represented within pastoral areas and are thus ineffective in containing conflict and enforcing the rule of law. Informants complained that when disputes arise, there is no prompt response by the authorities in charge of security. In some cases, government institutions are ineffective because they are seen to take sides in disputes and conflicts.

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<sup>34</sup> Ibid

**Table 1: The role of the different segments of the community in generating conflicts**

<b>Elders</b>	<b>Faith Leaders</b>	<b>Women</b>	<b>Youth (Boys)</b>	<b>Youth (Girls)</b>
Inciting/ provocative	They don't participate in conflicts but give advices to The community not to be involved in the wars.	Insult those men who protest of fail to participate Warmongers, Plays adulation role	Warrior/actual Implementers of attacks	Rewards the youth boys with bead and traditional jewelry and necklaces
Plans for war	Tries to cool down the hot tempered members	Feeding fighters	Action planners set strategies	Motivate warriors, singing hero songs,
Bless the warriors	Preach peace	Disseminate propaganda	Livestock raider	Praising the Warriors Agitates Youths
Tells back history to boost moral of them to initiate youths	Bless the Warriors Pressing the warriors through songs	Aggressor, Provoker Joins conflict picking guns	Give recognition to the attackers	

From the table above, informants indicated elite resort to violence to secure their interests. Asymmetric access to modern technologies such as small arms, motorized transportation and long-distance communication also reshape the dynamics of conflict which has significantly increased the magnitude of human fatalities. Wrongly conceived development schemes and investments implemented without the active participation of local communities results in unclear property rights mechanism thus increasing tensions. Politics can be a driver of conflict in pastoralist areas. In Kenya, new election constituencies are likely to be created before the polls and ethnically dominant communities stand a better chance of electing a leader from among their own.<sup>35</sup>

Also according to informants, the development of additional water points in the traditional wet season grazing areas, recurrent drought, bush encroachment, expansion of

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<sup>35</sup> Ibid

cultivation and population pressure are simply proximate causes of conflict. They attribute the root of the problem to the exclusive ownership of range resources and the associated erosion of the customary tenure systems that shaped the patterns of resource management. The inability of pastoralists to assert their wisdom and lack of complementarities between the formal and informal land tenure system is thus at the heart of the problem. Before, what was of relevance to herders was the option to access specific lands at different times of need, rather than the formal control over a temporally productive piece of land. As strict boundaries are set between pastoralist groups, minority groups such as the Ethiopian Gabra have also started claiming for a specific land. This is probably related to the privileges enshrined in Ethiopian constitution which gives economic, political and social right over land to citizen.

In addition, a number of rights over resources have emerged, from traditional wells related to a specific lineage, communal grazing areas, open-access systems, private cultivation and freehold. The heterogeneity in land tenure system in turn reshaped the conflict within and between groups complex. Thus the movement of livestock and herders transcending national or ethnic borders to share communal pool of natural resources has been problematic as evidenced in the Borana and Gabra conflict. However, this tension tends to be milder if the visitor and the host belong to the same groups.<sup>36</sup>

## **2.5 Impact of conflict on communities' resilience**

The sustainable use of pastoral rangelands depends in large measure on mobility, which allows for rotational use of wet and dry season grazing areas. Mobility is the first and major casualty of conflict as the resulting insecurity forces the community to concentrate livestock within a fraction of its former territory. Loss of access to grazing land and water sources puts the pastoral system under pressure and gradually reduces its self-sufficiency.

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<sup>36</sup> Ibid

This means that the land use system is no longer able to respond to ecological and climatic variability resulting in ecological degradation.

The increased ecological degradation is evident in the level of bush encroachment, which in turn changes the structure and composition of the herbaceous vegetation. The aggressive encroachment of undesired thorny and woody species on grazing areas result in an imbalance in the grass bush ratio and a decrease in biodiversity and carrying capacity causing severe economic and ecological losses to pastoral communities. According to Amsalu (2010) about 90 percent of households in Borana and Guji indicated that they have noticed changes in the condition of rangelands over time. Most of the high potential grazing areas are heavily degraded. In the course of this study, key informants asserted that bush encroachment is the single most important factor degrading rangeland resources.<sup>37</sup>

These changes have had adverse impacts on the quality of livestock and their productivity. Many families in Borana are no longer able to depend entirely on livestock keeping as the basis of their livelihoods. Instead, they are converting grazing lands into farmlands and communal land into private pasture reserves in order to ameliorate increasing grazing pressure and food insecurity. The communal nature of these conflicts mean that they perpetuate polarization of the affected communities, undermine social networks and historical links and create trans-generational animosities that undermine opportunities for development for the concerned communities while also jeopardizing national integration and economy. The resulting insecurity engenders loss of opportunities for the concerned communities as resources that could be used to improve economic and social opportunities and directed at security and peace building operations, while potential partners for development are discouraged from investing in the communities.

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<sup>37</sup> Ibid



## **2.6 Local Coping Mechanism**

In spite of the persistence of conflict in the pastoral areas of Borana Zone, local pastoralists continue with their lives, struggling to cope as best they can. Their traditional institutions and systems of mutual social support provide the main framework for coping with the situation. When grazing lands are lost, arrangements are made to share existing grazing lands. Where access to wells is lost, arrangements are made to excavate new ones or rehabilitate those that had fallen into disuse.

Increasingly, pastoralists are responding to the loss of rangelands by adopting farming as a means of enhancing food security. Growing crops is perceived as a coping strategy to lessen the demand on cattle for food. Communal rangelands are further enclosed to develop fodder banks in order to cope with feed scarcity. More recently, the Borana have started investing their earnings in urban housing and trade as a means of diversifying income.

Efforts are also being made to rearrange settlement so as not to interfere with indigenous grazing management that allocates different landscapes to different economic activities. This enables the communities to separate grazing areas from farmlands and reserve areas for dry season feed development. While this sits well with the current government strategy which seeks to settle communities, reduce the number of livestock per household and limit mobility in order to promote a more intensive natural resource management system, the underlying motivation as between government and communities are not necessarily the same.<sup>38</sup>

Development agencies are also supporting communities to develop strategies for coping better with conflict. These include support to livelihoods diversification, training on rehabilitation and maintenance of water points, improvement of feed supply through the harvesting, processing, treatment and conservation of locally available feed resources,

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<sup>38</sup> Ibid

improving management and use of natural resources, livestock marketing, and strengthening traditional range management systems, addressing food security issues.<sup>39</sup>

## **2.4 Conclusion**

When there are multiple users who can exert a claim on a natural resource, management of the resource will almost inevitably require addressing conflicts arising from these multiple claims. Community management of natural resources does offer promise, but must explicitly consider the linkages between community management, environmental management, and conflict management.

Various efforts have been made to find lasting solutions to the conflicts in Borana Zone. During the time of the Emperor, a Tribal Convention was adapted to control grazing rights, and provide for the sharing of the rangelands between the Borana and neighbouring communities. The current government has taken various measures that include establishment of local level administrative frameworks mandated to resolve inter-ethnic conflict, and decentralization policy to empower citizens and devolve decision making. Although these efforts have resolved some problems, many conflicts still persist in Borana Zone and other places, most of them involving pastoral communities<sup>40</sup>.

Other efforts worthy of note include the Dukana/Makona community led cross border peace initiative that brought peace between the Borana and the Gabra in June 2006 and created stability along the Ethiopia/Kenya border, which has lasted for more than years. The Halona Declaration has been widely adopted and applied in the wider Borana and its surroundings to resolve intermittent conflict among ethnic groups in the area. The Negelle Borana Peace Conventions were developed by representatives of ethnic groups residing in

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<sup>39</sup> Ibid

<sup>40</sup> Ibid

three pastoralist Zones of Borana, Guji and Liben of Somali and Oromia Region, with the active participation of representatives of Regional and the Federal government.<sup>41</sup>

The interventions for conflict resolution and peace building are based on both traditional and approaches. It is however acknowledged that traditional mechanisms are the most appropriate in dealing with the root causes of conflict and establishing sustainable peace. Experience has shown that peace agreements founded on traditional systems and mediated by traditional institutions are the ones that have the most legitimacy and the highest chances of success. A number of challenges continue to undermine these efforts at conflict management and peace building, resulting in their failure to prevent reoccurrence of violent conflict and ensure sustainable peace and stability in the area. Informants complained that interventions often focus on achieving temporarily cessation of hostility without addressing the underlying causes of conflict. As a result, such interventions are no more than firefighting actions. They fail to establish mechanisms for monitoring and follow up.

Informants also identified lack of capacity on the part of local peace structures as a constraint to sustainable peace. Peace structures were said to lack capacity in terms of finance or logistics to effectively monitor conflict situations to identify early warning indicators and make appropriate rapid response interventions. Even local administrative structures of Woredas in conflict prone areas lack such capacity, and are thus not in a position to provide support for community based peace structures.<sup>42</sup>

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<sup>41</sup> Ibid

<sup>42</sup> Ibid

## **CHAPTER THREE:**

### **Social-Economic Effects of Conflicts and Mitigation**

#### **3.0 Introduction**

This chapter discusses the general introduction of the Borana and their ways of operationalizing their institutions. The chapter forms a discourse basis for the analysis of the research findings. Northern Kenya conflict over range resources has a historical dimension which has largely remained uncorrected to this day by successive governments of Kenya. Besides, there are also emerging challenges from local entrepreneurs and rich western aristocrats who are being allocated huge swathes of pastoralist's lands for private development, where wild animals are fenced in and used for sports and tourism against the pastoralist's wishes. The chapter also underscores how an indigenous community has resorted to their age old justice institutions to ensure that in the absence of effective formal justice regimes that regulates rule of law in their region, they uphold and revitalize their systems to have justice in equitable allocations and use of the scarce range resources, by resolutions of conflicts over the same through their indigenous justice systems.

Livestock production is the major economic activity in Northern Kenya. Livestock population includes: Cattle, goats, camels, sheep, and poultry, among others. Despite the important roles played by livestock in Northern Kenya pastoralists and their animals face so many problems, which undermine their livelihood and wealth creation. Some of these problems include droughts, human conflicts, and raids. Livestock mobility is the most important strategy that pastoral communities utilize to cope with devastating effects of drought.<sup>43</sup> For instance pastoralists along the Kenyan - Ethiopian border move long distances across and along the borders in search of better pastures for their animals during the drought season. Pastoralist routine movements along and across/along the border have both positive

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<sup>43</sup> Behenke, R. (1997): *Natural Resource Management in Pastoral Africa*; Development Policy Review 12:5-27

and negative effects on both humans and livestock. Positive effects include exchanging ideas on disease control, resource and livestock management, while negative effects include livestock transmissions, range degradation and tribal conflicts. According to Makumi conflicts along and across the border is complex as some conflicts such as raiding have a long history and have to some extent become aspects of pastoralist culture.<sup>44</sup>

### **3.1 The Borana**

The Borana are part of the larger Oromo speaking people of Ethiopia. Oromo is one of the most populous language groups in Africa.<sup>45</sup> The Oromo community who inhabit Ethiopia predominantly are considered among the largest and the most widespread “ethnic groups in Africa and are estimated to number between 25 -30 million people”.<sup>46</sup> The Borana live to the South of the main ‘Oromia’ land in Ethiopia as well as in the Northern part of Kenya, ‘straddling the borders between the two countries’. In Southern Ethiopia, the Borana number over 500,000 while in Kenya they are over 300,000 people. Borana have two general moiety division known as Sabbo and Gonna, where Sabbo has three sub moieties and Gonna has 14 sub moieties. While the Borana generally co-exist as a unit irrespective of whether you are a Sabbo or Gonna, the only restriction is inter marriage from the same moiety is not allowed. Hence, Sabbo marries from Gonna and vice versa. The general community unity and pattern of life is ordered along the rules and regulations of the Gada system of administration, which has a structured chain of command with Aba Gada – literally father of the Gada at the top.<sup>47</sup>

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<sup>44</sup> Makumi M, Macharia M, Karuru N (1998): *Understanding conflicts and its management*: Centre for women and law in East Africa, West mark printers limited, Nairobi

<sup>45</sup> Legesse, A. (2000) *Oromo Democracy, An Indigenous African Political System*. Asmara: The Red Sea Press, Inc.

<sup>46</sup> Bassi, M. (2005) *Decisions in the Shade, Political and Judicial Processes among the Oromo – Borana*. Asmara: The Red Sea Press, Inc.

<sup>47</sup> Bassi, M (2010) ‘*The Politics of Space in Borana Oromo, Ethiopia: Demographics, Elections, Identity and Customary Institutions*’ *Journal of Eastern African Studies* 4(2): 221 -246.

Every Gada remains in office for a formal eight years after which they are to hand over to the incoming Gada officials through a formal handing over ritual ceremony. “The scholars of Oromo history and ethnography have placed a great premium on the Borana as the repository of the ‘gada system’ In contemporary Oromo, political, social and cultural dispensation, the concept of the Gada plays the central role as an indigenous and egalitarian form of democracy”<sup>48</sup>

During the scramble for Africa by the colonialists in the 1890’s, the Borana land was divided between the British East African Protectorate (later Kenya) and the Abyssinian Empire (later Ethiopia)<sup>49</sup>. The Kenya Borana currently occupies the upper part of the Eastern Province to the North of the country and occupies three Countys namely; Isiolo, Marsabit and Moyale. This partition of course did not come or happen without consequences to the unity, harmony, polity, and psych of the Borana nation.

### **3.2 Pastoralists and Challenges to Pastoralism**

Pastoralists according to the available records have been in Kenya from the third millennia BC.<sup>50</sup> There was huge social diversity, where different communities of different cultures developed dominance over particular regional niches. At present pastoralists occupy most of the 80% of Kenya’s total dry lands, alternatively called – Arid and Semi –Arid Lands (ASAL’s). Further, the pastoralists are 20% of Kenya’s national populations. Like other indigenous populations across the globe, the pastoralists share land and utilize kinship ties for mutual social solidarity. Pastoralists are generally defined as people who rely heavily on production of domestic herds, whose sustainability is based on mobility and the availability of pasture and water

Below there is brief discussion on the historical consequences of the Borana encounter with the colonialism and also the current challenges the pastoralists are facing after

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<sup>48</sup> Ibid 16

<sup>49</sup> Ibid 16

<sup>50</sup> Ibid 27

which the Borana range resources management regimes are discussed. The purpose of this is that, in the process of interacting with the community and especially the senior elders and my own personal experience and readings of various literature on Northern Kenya, including a KNCHR report of the 2000, that was titled the 'Forgotten People', there is a link between what happened in the past and what is being experienced at the moment. The current lack of development and marginalization is indeed a historical incident that has been perpetuated to date. Left with minimal government interventions the community resorted to preserve their indigenous institutions to govern and manage their socio, economic and political lifestyle to cope with the realities of their circumstances.

### **3.2.1 The Historical Challenges that inform the Present**

There was evidence that Borana rose to have some dominance in the South of Ethiopia and Northern Kenya, which by early 19th Century was a borderless land, where the pastoralists roamed freely.<sup>51</sup> To this rise to power beginning of 19th Century, Bassi (2010: 6) states that; "They created a network of alliances with other pastoral groups – the Gabra, Sakuye, Garii, Ajjuran and Wardaha – over which the Borana held a position of hegemony"<sup>52</sup>. This hegemony was not to last long as at the second half of the 19th century, three colonial powers came on the scene of Borana land. The Italians from the East, the British from the South, and the Abyssinians from the North. As Schlee points out;

"In Northern Kenya the domination of the Borana who had been under pressure from the westward advance of Somali groups from the second half of the 19th Century, ended with British colonization which was roughly contemporary with the military annexation of Borana territory by Ethiopia. The imposition of colonial order made possible in both Kenya and in Ethiopia by the use of fire arms and the consequent division of the Borana of Kenya and those of Ethiopia made it impossible for the Borana to resist and defend their territories."<sup>53</sup>

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<sup>51</sup> Ibid

<sup>52</sup> Ibid

<sup>53</sup> Schlee, G. (1989) *Identities on the Move: Clanship and Pastoralism in Northern Kenya*. Gideon Were Press, Nairobi. Pg 47

Further observation was made by an American traveler, who was among the first non-British to traverse Borana region - Donaldson Smith, who made a scathing remarks against the British “For allowing Ethiopians and Italians to unleash havoc in the Borana land”.<sup>54</sup> The British directives that the Borana should not use mounted horses in war fare to check the encroachment of their land resources really put Borana at a disadvantage against their expanding enemies. When the British and Ethiopians (Abyssinians) signed the partition agreement between themselves, the now weakened Borana were not even consulted, but there was a guarantee that Borana on both sides of the borders should have unfettered access to either side of the border to access the range resources as need may arise. This agreement was not to live long as the Ethiopians “flouted the spirit of the agreement by stopping Borana from the British side to access pasture and water on the opposite side<sup>55</sup>.” These restrictions of course had a devastating impact on the perpetually held communal social networks and shared resources among the Borana.

The advent of colonialist in the Borana region led to proliferation of arms, which began to play a critical role in determining who controls what in the region. The Borana were not able to get access to ‘modern’ weaponry until much later due to the skewed colonial policies against them. However, from the quote above we realize that this situation set in motion a kind of ‘armed race’, as every community in the Northern region realized the power of the ‘modern weaponry’, to determine who gets the best or most of the ‘commons’ resource, that is the range resource of the Borana land.

This sad historical precedent planted the seed of discord among the pastoralist of Northern Kenya, who ever since have come to be identified with war fare and conflict over access to range land resources – land, pasture, saltlicks and water instead of the harmonious

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<sup>54</sup> Huxley, E (1935) *White Man's country: Lord Delamere and the Making of Kenya*, (Vol.1). London: Macmillan. P 39

<sup>55</sup> Oba, G (1996) ‘*Shifting Identities along Resource Borders: Becoming and Continuing to be Borana-Oromo*’, in Baxter, P.T.W., Hultin, J., Triulzi, A. (Eds.) Pg 42



dialogue based mutual co-existence that was in place before the advent of the colonialists – Abyssinians in Ethiopia side, Italians on Somali side and British in the Kenya side. This rather unfortunate policy choice by the colonialist for the pastoralist communities of Northern Kenya is what made the American writer James Negley Farson, who made a maiden journey through the Northern Kenya region to state rather succinctly that the region is “One half of Kenya about which the other half knows nothing and seems to care even less”<sup>56</sup>.

### **3.2.2 Contemporary Challenges that Perpetuates the Past**

Pastoralists are generally defined as people who rely heavily on production of domestic herds, whose sustainability is based on mobility and the availability of pasture and water. Though the pastoralists lands exhibit such main features, that is; receives little rains, has high vapor transpirations, vegetation is sparse and soils are shallow – nevertheless it is suited for livestock production, which includes cows, shoats, camels, donkeys and supports huge wildlife populations.

In Northern Kenya, this phenomenon has already been witnessed in Isiolo and Marsabit area where the remnants of former colonial settlers rich and powerful western and European aristocrats are hiving off huge chunks of pastoralists lands and turning them into private ranches or the so called ‘conservancy’ – where wildlife is fenced in for sports and tourism. These lands once given out are formalized through registrations, while the pastoral lands are left without any form of identifications or regulations as it ‘does not belong’ to ‘anyone’. The taking of these pastoralists’ lands is in connivance between the aristocrats, the state or local authorities. Hence as the pastoralists lands shrinks so is the already limited resources of pasture and water. So, this uncontrolled ‘taking over’ of the pastoralists lands has a very negative impact on the mainstay of the pastoralists as it seriously jeopardizes the

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<sup>56</sup> Farson, J. N (1950) *Last Chance in Africa*, p.260.

production systems of the community, as livestock depends on the extensive grazing of native pasture and range water sources.

Elliot Fratkin, in describing the prevailing circumstances in pastoral regions of the world state that; “Pastoralists societies face more threats to their way of life now more than any previous time. Population growth , loss of herding lands to private farms, ranches, game parks and urban areas, increased commoditization of livestock economy, outmigration by poor pastoralists , and period dislocation brought about by drought, famine and civil war are increasing in pastoralists region of the world<sup>57</sup>.

However what Eliot Fratkin, did not point out or over looked is the fact that these threats he mentioned will obviously have an impact on the social cohesion of the pastoralists community, their way of life, their way of interacting, the kinship and above all their way of dispensing justice and handling of emerging issues. These challenges are very real; hence a strong indigenous institution is required to manage the shrinking resource base if pastoralism is to remain a viable enterprise. Hence the Borana of Northern Kenya and Southern Ethiopia have preserved their Gada resource management institutions which as is a long history of preservation of cultural and social systems within which communal resources were governed.

### **3.3 Social-Economic effects of conflicts**

Cross border conflicts between the pastoral communities have been attributed to many factors which include inadequate policies guiding the utilization of the natural resources across and along the borders and the fact that any land between two neighbouring countries is considered no man’s land. Other factors include diminishing role of traditional governance systems and competition over control and access to natural resources such as pasture and water and land issues, political incitements by the leaders of warring communities<sup>58</sup>. There

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<sup>57</sup> Fratkin, E (1997) ‘*Pastoralism: Governance and Development Issues*’, *Annual Review of Anthropology*, 12 (26): 235-261.

<sup>58</sup> Karimi M., 2003: *Conflict in Northern Kenya: A Focus on the internally displaced Conflict via Northern*, ITDG –EA, United States Institute of Peace.

are allegations that economically powerful people encourage conflicts to flush out would be supporters of political opponents.

These traditional conflicts have become increasingly destructive and less manageable due to the use of semi-automatic weapons. According to Kamenju et al., (2003) the prevalence of insecurity in the area has spawned the gun culture in a bid for pastoralists to protect themselves and their livestock from aggressors<sup>59</sup>. Armed violence not only kills, but also causes fear, migration and disrupted livelihoods. Sometimes small scale violence can be fruitful as it warns elites to stop suppression and to increase accessibility to natural resources. How the use of semi-automatic weapons has made the impact of conflicts to be more severe than it used to be before, when pastoralists used to use spears and arrows. Cross border conflict is destructive to people's social and economic wellbeing and as such attracts considerable attention.

The Gabra and Borana communities experienced negative effects as a result of their 2006 conflict. The responses given indicated that communities lost many livestock and they were carried away by during the time of war. There were also displacements of the two communities. Boran pastoralists who were displaced from Northern Kenya got settled at Sololo, Walda, Megado, Harbale and Dilo. The Gabra pastoralists who were displaced from southern Ethiopia settled in Dukana and other parts of Marsabit and Moyale Countys. The displaced families settled in urban centres where they receive food aid from the UN, governments and other well-wishers.

Cross border conflict between the Gabra and the Boran disrupted the social bindings which used to be enhanced by inter marriages, participating in similar cultural rituals and sharing traditional shrines. Another impact has been the discontinuation of economic transactions between the pastoralists of southern Ethiopia and northern Kenya. Pastoralists

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<sup>59</sup> Kamenju, Mwachafi, Wairagu 2003: *Profiling Small Arms and Insecurity in the North Rift Region of Kenya*, Oakland Media Services Ltd, Nairobi, Kenya.

from both countries have been having cross border trade in small ruminant, mineral licks, clothes and food stuffs which have been disrupted due to cross border conflicts.

### **3.4 Resource conflict and Land degradation**

This study revealed that resource conflict has contributed a great deal for environmental degradation in Northern Kenya. This is evidenced by disruption of migratory patterns leading to unsustainable utilization of natural resources as livestock tends to be concentrated in secure areas especially near the home camps. This contributes to local overgrazing that has reportedly led to the disappearance of valued perennial forages including *Cenchrus ciliaris*, *Chrysopogon plumulosus*, *Pennisetum mezianum*, *Echinochloa haploclada*, *Panicum coloratum*, *Leptothrium senegalense*, *Blepharis linariifolia*, *Aristida adscensionis*, and *Indigofera clifordiana*. In contrast, the no go zones land where conflict has eliminated a regular presence of livestock has improved foraged condition. This situation would only be averted if insecurity is reduced so that grazing pressure is spread to areas currently under used and allowing over used areas to recover.

## **CHAPTER FOUR**

### **Approaches and Mechanisms in Resource Conflict Management among the Borana Community**

#### **4.0 Introduction**

There is increasing interest in community based approaches to the management of natural resources in Africa. Pastoral areas present particular challenges and opportunities to community based management programs. Over the years, the border zone between Kenya and Ethiopia has witnessed increasing ethnic and political conflict. These conflicts have been frequent and are mostly over resource management, utilization and exploitation. The pastoralists comprise a number of different ethnic groups who move across the border with their herds in search of pasture and water.

Among the Borana, land is communally owned and the community controls land resources through a council of elders (Jaarsadedha), which ensures equal rights and access to the resources by every member of the Borana community. If disputes arise at the watering points (well or dams) the matter is referred to the council of elders. Prior to any movement of livestock, intense negotiations over access to water and pasture are held between the respective elders.

#### **4.1 The Borana Community**

The Borana are part of the larger Oromo speaking people of Ethiopia. Oromo is one of the most populous language groups in Africa.<sup>60</sup> The Oromo community who inhabit Ethiopia predominantly are considered among the largest and the most widespread “ethnic groups in Africa and by 2009 they were estimated to number between 25 -30 million people”.<sup>61</sup> The Borana live to the South of the main ‘Oromia’ land in Ethiopia as well as in

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<sup>60</sup> Legesse, A. (2000) *Oromo Democracy, An Indigenous African Political System*. Asmara: The Red Sea Press, Inc. p 25

<sup>61</sup> Ibid: 15-20

the Northern part of Kenya, 'straddling the borders between the two countries'. In Southern Ethiopia, the Borana number over 500,000 while in Kenya they are over 300,000 people. Borana have two general moiety division known as Sabbo and Gonna, where Sabbo has three sub moieties and Gonna has 14 sub moieties. While the Borana generally co-exist as a unit irrespective of whether you are a Sabbo or Gonna, the only restriction is inter marriage from the same moiety. Hence, Sabbo marries from Gonna and vice versa. The general community unity and pattern of life is ordered along the rules and regulations of the Gada system of administration, which has a structured chain of command with Aba Gada -literally father of the Gada at the top.

Every Gada remains in office for a formal eight years after which they are to hand over to the incoming Gada officials through a formal handing over ritual ceremony. "The scholars of Oromo history and ethnography have placed a great premium on the Borana as the repository of the 'gada'system' In contemporary Oromo, political, social and cultural dispensation, the concept of the Gada plays the central role as an indigenous and egalitarian form of democracy"<sup>62</sup>

During the scramble for Africa by the colonialists in the 1890's, the Borana land was divided between the British East African Protectorate (later Kenya) and the Abyssinian Empire (later Ethiopia).<sup>63</sup> The Kenya Borana currently occupy the upper part of the Eastern Province to the North of the country and occupy three Counties namely; Isiolo, Marsabit and Moyale. This partition of course did not come or happen without consequences to the unity, harmony, polity, and psych of the Borana nation.

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<sup>62</sup> Ibid: 16

<sup>63</sup> Ibid: 16

## **4.2 Management of Natural Resources among the Borana Community**

Although secure land tenure is a vital foundation for strong natural resource governance, complementary natural resource management institutions are vital if community members are to realize the collective benefits from land ownership. Such mechanisms can play an essential role in regulating access to the area and the use of the natural resources the area contains, and in sanctioning individuals that transgress the standards set by the area's communal owners. Indeed, the ability to exclude "free riders" from an area or from accessing resources is one of the cornerstones of common property resource management, without which many of the long-term benefits of formal communal ownership will not be realized. As pressure on Garba Tula's rangelands appears set to increase and the conversion of land to agriculture and other uses continues to reduce the resources available to community members, this ability to control and regulate access and use of the area's natural resources is perhaps more important now than ever before.

### **4.2.1 Community based Interventions**

The ability of pastoral populations in East Africa to manage their own resources has long been viewed with skepticism. In large part, this skepticism results from the view that pastoral production is the cause of degradation and desertification, due to the inherent incentive problems of common property production and the cultural values of pastoralists.<sup>64</sup> Due to the nature of the production system and the cultural context of production that herders need to accumulate more animals than is optimal from an environmental perspective.

Policies influenced by this view were common in the colonial and early post-independence period. Sobania quotes colonial era documents from the 1930's arguing that since pastoralists in Northern Kenya own far too many animals from an environmental point

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<sup>64</sup>Jarvis, L. (1980). *Cattle as a Store of Wealth*: Comment. American Journal of Agricultural Economics 62(3). p. 606-13

of view, veterinary programs will be counterproductive<sup>65</sup>. Rather, the document suggests “...a bit of disease now and then is to be encouraged in their stock provided it doesn’t reach epidemic form”.<sup>66</sup> Lipscomb summarizes the problems of the pastoral livestock sector of Kenya in one word – overstocking – and describes controlled grazing schemes to address this problem<sup>67</sup>. Brown suggests the objective of conservation can be met by combining destocking with the partial removal of human populations from semi-arid areas to ease population pressure and with change in the diets of those who remain behind<sup>68</sup>.

As the nature of pastoral production is posited as the underlying cause of degradation, this perspective holds out little hope that the pastoral population will be capable of addressing rangeland degradation. Walker argues “The future of large tracts of Africa thus depends, in the first instance, on drastic changes in traditional attitudes towards land-use among relatively unsophisticated and uneducated indigenous peoples.”<sup>69</sup> They can only be brought about by concerted and well planned programs of rural reform and education...”<sup>70</sup> Walker supports the view that such programs will require direction from outside the pastoral sector. He argues that since people with initiative and high capabilities are attracted away from semi-arid regions to higher potential zones, “...semi-arid ecosystems have, therefore, often been managed by a segment of the population which constitutes the least capable, least innovative group, often disinterested in what they are doing, but not capable of changing their circumstances.”<sup>71</sup>

These views influenced the design of development programs in pastoral areas. In a review of World Bank pastoral development schemes, Sylla describes the development

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<sup>65</sup>Sobania, N. (1979). *Background History of the Mt. Kulal Region of Kenya*. UNESCO, Nairobi.

<sup>66</sup> Ibid

<sup>67</sup>Lipscomb, J. (1955). *White Africans*. Faber and Faber: London. pp. 162-163.

<sup>68</sup>Brown, L. (1971). *The Biology of Pastoral Man as a Factor in Conservation*. *Biological Conservation*. 3(2): p. 93-100.

<sup>69</sup>Walker, B. (1979). Introduction. In B. Walker (Ed.). *Management of Semi-arid Ecosystems*. Elsevier Scientific: The Netherlands. p. 3-5.

<sup>70</sup> Ibid

<sup>71</sup> Ibid



efforts arising from this approach as falling into the “Ranching Phase”. This phase began in the colonial period and lasted until the mid-1980. It involved the transfer of western technology to arid African rangelands, and involved a high degree of capital investment and direction by expatriate staff.<sup>72</sup> The objective was to transform pastoral production into commercialized ranching, which it was believed would simultaneously increase human welfare by commercializing livestock production systems and reverse environmental degradation by addressing common property incentive problems.

Frustration with the failure of development efforts led to a growing appreciation of the need to involve pastoral organizations in program design.<sup>73</sup> In the first phase of this effort, pastoral organizations were largely viewed as institutions through which a project message would be disseminated. This extension oriented approach was designed as a means of delivering information to producers via these organizations.<sup>74</sup>

These efforts have been modified over the years to place increased emphasis on natural resource management by pastoral organizations.<sup>75</sup> In part, this reflects the overall move in the field of development to participatory methods.<sup>76</sup> Growing emphasis has been placed on understanding traditional environmental management practices.<sup>77</sup> Increased appreciation for traditional management practices often developed when pastoral extension officers found that their work among pastoral populations led to an increased appreciation of

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<sup>72</sup>Moris, J. (1998). Under Three Flags: *The Policy Environments for Pastoralists in Ethiopia and Kenya*. SR/GL-CRSP Pastoral Risk Management Project Technical Report 04/99. Utah State University, Logan.

<sup>73</sup>Sylla, D. (1995). *Pastoral Organizations for Uncertain Environments*. In I. Scoones (Ed.). *Living with Uncertainty: new directions for pastoral development in Africa*. Intermediate Technology Publications: London. p. 134-152.

<sup>74</sup>Butcher, C. (1994). *Extension and Pastoral Development: past, present and future*. Pastoral Development Network Paper 37d. Overseas Development Institute: London

<sup>75</sup>Nielsen, E. (2003). *Natural Resource Conflict Management Case Studies: an analysis of power, participation and protected areas*. FAO: Rome.

<sup>76</sup>Chambers, R. (1997). *Whose Reality Counts?* ITDG Publishing: London

<sup>77</sup>deHaan, C. (1994). *An Overview of the World Bank's Involvement in Pastoral Development*. Pastoral Development Network, # 31b. London: Overseas Development Institute.

traditional pastoral practices on the part of the extension agent, rather than adoption of the extension message by the pastoralists.<sup>78</sup>

Historically in Borana community, as with many communally owned and primarily pastoralist areas, customary institutions have fulfilled this vital resource management role (even in the absence of secure ownership rights), and have successfully controlled and regulated access to the area and the natural resources it contains. As mentioned above, land in Borana community was traditionally part of a common property regime implemented by the Borana community, with ownership vested in the community and supervised by an intricate governance mechanism with a hierarchy of organization at the “Olla” (several closely interconnected households), “Artha” (a cluster of Ollas) and “Dheth” (a grazing area community comprised of several Arthas) levels. A council of elders placed at the head of each of these mechanisms was traditionally responsible for managing the utilization of all community resources at the appropriate level, drawing strategic guidance from unwritten traditional rules, regulations, norms, values and beliefs.

Efforts aimed at managing the conflicts include both traditional and modern approaches. Traditional institutions and systems of conflict resolution were noted to be functioning with relative effectiveness. Indeed at the time of visit to the area it was reported that elders from the Borana community in Merti had been sent to Samburu East to negotiate for grazing rights. Borana elders are said to retain considerable influence over their youth. However, Samburu and Rendille elders are reported to have lost control of their youth.

Where traditional institutions have lost their influence, this is blamed on interference and watering down of their authority by the influence of educated youth, County Peace Committees, government and politicians. In addition, the grassroots people who are most affected by the conflict and those who understand issues best - i.e. youth, women and herders

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<sup>78</sup>Akabwai, D. (1992). *Extension and Livestock Development: Experience from among the Turkana pastoralists of Kenya*. Pastoral Development Network Paper 33b. Overseas Development Institute: London p. 9-54.

- are usually left out in the conflict resolution processes. Even worse is when the government appears to deliberately favour some communities over others.

NGOs are also blamed for commercializing the role of elders in traditional institutions through the introduction of monetary incentives for attendance at meetings and other functions. Sitting allowances, trips, invitations to workshops and such other incentives are said to be corrupting traditional institutions and undermining the authority of elders.

Plans are afoot to establish community negotiated grazing committees (or pasture management committees) specifically for the Kisima Hamsini/Kom area to complement the County Peace Committees (CPC). The grazing/pasture committees will be representative and will be charged with the tasks of developing rules and regulations on grazing resource access and use. While the intention here may be good, unless due regard is had to the role and place of traditional institutions in the matter, this may well serve as another instant of interference that ultimately undermines the effectiveness of traditional systems.

The Regional Commissioner also indicated that plans are underway to institute a requirement that the herders who depend and move to Kisima Hamsini/Kom area during the stress periods migrate with their local chiefs. This is a noble suggestion but the question remains whether these chiefs will be freshly recruited and if not what happens to their areas of jurisdiction back home after they move towards the dry grazing reserves.

Modern approaches to conflict management and peace building involve institutions and structures established by government either on its own or in collaboration with other peace actors such as development partners and NGOs. DPCs are probably the most important such institution. Under the direction of the National Steering Committee on Peace-building and Conflict Management (NSE), the DPCs are local mechanisms that bring together different stakeholders to work with government agencies, including those in charge of law enforcement and security to spearhead conflict management and peace-building initiatives

through elaborate networks at the community level that provide a basis for early warning and rapid response. While the DPCs face numerous operational challenges, the most severe being under resourcing, they are doing a commendable job in close collaboration with local administrators.

Specific to the Kisima Hamsini/Kom area is what is dubbed the *KOM Peace Initiative*. In 2011 as the severity of the drought became manifest, elders from different communities met and agreed that all the communities affected by the drought should be allowed to access and graze their livestock in Kisima Hamsini/Kom area. This gave birth to KOM 3, which was a follow-up to KOM 2 and 1 - meetings bringing together different stakeholders with interests in Kisima Hamsini/Kom area. The meetings (KOM 1, 2 and 3) were facilitated by three CBOs, namely: PEEPS supporting the Rendile from Laisamis; CODES supporting the Samburu and the Merti Integrated Development Programme (MID-P) supporting the Borana; all with funding support from CORDAID.

Critical among the functions of these customary governance mechanisms was of course the management of the grazing regime, and they traditionally provided the checks and balances necessary to sustainably manage key pasture resources. Other communities were not necessarily excluded from accessing these resources, but would require permission from the appropriate council of elders to make use of them in the areas under their jurisdiction. Even within the Borana community itself, members of different Dheth would require permission to use resources from the Council of Elders associated with the Dheth in the area they were planning to move to. Alongside overall access, use of grazing areas themselves was also regulated by these mechanisms, with different areas set aside for different types of livestock depending on their physical strength, household use, and lactation state. For example, young

and lactating herds would be grazed close to households, while mature herds were kept further away, with separate areas set aside for herds transiting through an area.<sup>79</sup>

These customary governance mechanisms also played a crucial role in controlling rights of access to water, which varied according to the sources it could be obtained from (e.g. wells, rivers or ponds). In general terms, the rights required to access a source of water are related to both the reliability of the source and the amount of labour required for the development and maintenance of that source. For example, occasional water sources (e.g. surface water from rain) have the most unreliable supply and generally no restrictions whatsoever are imposed on accessing them. The Council of Elders would however retain some influence over regulating access and use of communal water sources, such as dams, some wells and rivers. While deep wells are the most reliable and labour demanding source of water, and accordingly have the highest levels of restriction over their access. Control of these sources rests to a large degree with the person responsible for initiating the well's development, known as the "aba erega".<sup>80</sup>

Other grassroots organizations have also been established in the area to manage local water sources. Most notably this includes the Rangeland Users Association (RUA), a community based organization which is responsible for managing deep water wells in Merti County. These wells are a critical source of water during drought periods, and are used by people from both Borana community and Merti Countys. The management of the RUA was originally drawn from local Dheths with the aim of providing a legal basis for the traditional rules implemented through customary institutions.

#### **4.2.1.1 Administrative and Social Unit Institutions of the Borana Community**

The Borana have defined distinct administrative and social units. These units help the community to assign important communal roles like, range resources governance, security,

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<sup>79</sup> Ibid: 221 -246.

<sup>80</sup> Ibid

ritual performances and disputes and conflict resolutions. The institutions are structured in such a way that they are represented from the lowest social unit - Olla to the highest pan Borana assembly – The Gummi Gayyo. Generally as Doyo, sums it “The defining features of Borana range management institutions are indigenous knowledge, equitable access, and decentralisation of governance, principles of subsidiarity, distributive and redistributive mechanisms and environmental sustainability”.<sup>81</sup>

Watson in summarizing the role of key administrative and social institutions or units in range resources management and conflict resolutions observes that:

“The Abbaa Gadaa is seen as the figurehead of the whole of Boran, and is often described as the President. As well as performing rituals, matters are referred to him and his council when a decision cannot be reached at a lower level. When conflict breaks out between olla’s (the smallest unit of settlement consisting of 30 to 100 Warraas households) or Arddaas (small group of Ollaas, usually two or three only, who may cooperate together on their grazing pattern), or Maddaas (area surrounding one water source), then the Abbaa Gadaa will rule on the case. If there is conflict between ethnic groups, then he will be called in to help make peace. As the Abbaa Gadaa is responsible for dealing with matters of concern to the Boran, and as matters of concern are often related to access to the resources (water, land, and forests), the Abbaa Gadaa is the highest level of institution of natural resources management in Borana”<sup>82</sup>.

The Borana Gada is a complex, elaborate and all-embracing social institution, which at first sight is concerned with the relations within and between the generations, but which, more fundamentally, is about how the Borana should live their lives. The Gada therefore has important ritual, political and judicial aspects attached to it. It consists of a series of individual celebrations as well as a cycle of large-scale public rites, both of which require considerable economic resources for their proper performance. Succeeding set of men are selected to represent their respective generations and carry public responsibilities over an 8-

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<sup>81</sup> Ahmed, Y.O. (2009) ‘*Water Policy and Meteorological Drought Characteristics in Northern Kenya*’ A thesis submitted in partial fulfillment of the requirements for the Masters of Science Degree in Environmental Science State University of New York College of Environmental Science and Forestry Syracuse, New York April 2009.

<sup>82</sup> Watson, E. (2001). ‘*Inter institutional alliances and conflicts in natural resources management*’: Preliminary research findings from Borana, Oromiya region, Ethiopia. Marena research project, working paper No. 4. p13

year period for the proper unfolding and celebration of the Gada. These Gada councils, headed by the Abba Gada, do not have direct political responsibilities, but participation in a Gada council is an indispensable platform for those who later build individual political careers and assume positions of leadership in Borana. The Borana have throughout been able to provide the resources needed to maintain the Gada and there is no doubt that the Gada has continued to be important to the Borana at both an individual and a societal level.<sup>83</sup>

The importance to the Borana of the Gada in political terms, however, has probably been reduced in step with the increasing integration of the Borana into the Ethiopian State. In terms of contemporary development issues the survival of the Gada as a ritual and ideological system may be perceived as being secondary to the survival of a number of other Borana institutions with a far more pragmatic outlook, e.g. councils for the resolution of conflict and the maintenance of peace, institutions for the management of natural resources and institutions for mutual assistance and redistribution of wealth. It is important to keep in mind that the Gada subsumes all these other institutions in an integrated Borana worldview and infuses these more pragmatic institutions with, the authority and legitimacy, which they require to be effective. Hence, it is hardly likely, that these other institutions will survive without the Gada, nor that the Gada will retain its importance in their absence or in a situation where they are seriously weakened or made irrelevant.<sup>84</sup>

The second important point to keep in mind is that Borana is a pastoral society. Livestock husbandry is the economic mainstay of the area and the welfare of the Borana is still primarily determined by events in the livestock economy. There are pockets of land within Borana where crop production is possible, but the Borana themselves have not

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<sup>83</sup> Coppoci, D. L.: *'Vegetation and Pastoral Dynamics in the Southern Ethiopian Rangelands: Implications for Theory and Management'* in Behnke, Scoones & Kerven (eds.): *Range Ecology at Disequilibrium; New Models of Natural Variability and Pastoral Adaptation in African Savannas*, ODI (London), 1993.

<sup>84</sup> Cossins, N. J. & M. Upton: *'The Impact of Climatic Variation on the Borana Pastoral System'*, *Agricultural Systems*, Vol. 27 (1988) pp. 251 – 278.

developed an agricultural tradition. Agriculture was introduced to the Borana areas in the wake of the Ethiopian colonization, when soldiers/settlers were given land grants in the area, often in conjunction with the small garrison towns established at that time. Many of the farmers in Borana today are the descendants of these settlers. Farming is also practised by the descendants of other immigrants from neighbouring groups, such as the Burji, many of whom originally came to Borana as agricultural serfs of the soldier/settlers, or the Konso, the main trading partners of the Borana. The Konso have traditionally been the principal source of the agricultural commodities needed by the Borana. A number of Kongo artisans such as blacksmiths and potters, also settled among the Borana.<sup>85</sup>

Until quite recent times (most people would indicate the 1984/85 drought as the point when this started to change) the local economic specialization into herders and farmers more or less followed ethnic lines, - with next to no Borana being involved in farming and only Borana and their clients being allowed access to the pastoral resources. Today, there are a number of Borana who have taken up agriculture. Agricultural expansion into the most favourable parts of the rangelands is a salient feature of the current situation, even though there is little precise information about its extent or rate of increase from year to year. An important aspect of this agricultural expansion, however, is that individuals can now gain exclusive rights to land resources in Borana, through the expedient of declaring a patch of land as farmland and paying agricultural land tax for it. In contrast, the state does not recognize the collective rights of the Borana to the pastoral rangelands.<sup>86</sup>

#### **4.2.2 State Based Interventions**

Natural resource governance, involving multiple stakeholders with different needs and multiple natural resources being subject to different forms of utilization, is inevitably highly

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<sup>85</sup> Donaldson, T. J.: (1986). *Pastoralism and Drought: A Case Study of the Borana of Southern Ethiopia*. M. Phil. Thesis, University of Reading (Reading),

<sup>86</sup> Helland, J.: (1982). 'Social Organisation and Water Control Among the Borana' *Development and Change*, Vol. 13 pp. 239 – 258.



complex and dynamic. This is all the more so with regard to natural resource governance in Kenya because of the on-going process of introducing and implementing the new Kenya Constitution, which has profound implications for governance at national, regional and local levels, not least for natural resource governance. The new Kenya Constitution profoundly influences the very nature of governance – i.e., the relationship between the governed and the governing – but will also have far-reaching impacts on the laws, policies, institutions and processes by which governance of natural resources is delivered in practice. Specifically, as will be discussed later in this report, the new Constitution provides a framework for the decentralization of governance mechanisms, in particular the devolution of ownership and accountability for natural resource use and management to local stakeholders, as opposed to central government. This represents a potential paradigm shift for natural resource governance in Borana Community which is highly complementary to and supportive of the governance strengthening initiatives being implemented by the community based projects.

The provisions of the Kenya Constitution with regard to community lands are elaborated in the Land Policy (2007), which was approved by the Kenyan Cabinet in June 2009 and adopted by Parliament in December 2009 (under Sessional Paper No.3 of 2009 on Land Policy). Specifically, the Land Policy makes provision for the establishment of “Community Land Boards” with responsibility for “holding and managing community land” on behalf of the concerned community, and comprising a representative cross section of people ordinarily resident in the area, and that will vet/approve all land transactions in the area under their jurisdiction. In addition, the Land Policy advocates the establishment of County Land Boards comprising democratically elected community representatives and with responsibility for promoting equitable access to land.

The revised approach to community land ownership set out in the Kenya Constitution and elaborated in the Land Policy represents a return to a more traditional common property

regime governance approach to land ownership, as opposed to the current westernized system of individualized land ownership. The new mechanisms potentially create a “powerful system of land allocation regimes and a tenure system designed to preserve the asset base for current and future generations”<sup>87</sup>

Clearly, this new legislation and the related community based land ownership and management institutions potentially provide a clear and timely route that the residents of Borana community can pursue to secure ownership of the lands that they have traditionally occupied, used and managed, which should in turn provide a legal basis for any measures taken to control access and use of the area, and improve incentives for sustainably managing the area over the long term. However, significant work remains to be done to translate this legislative framework into the reality on the ground. As set out in the Land Policy, on the part of the government this will involve: mapping existing customary land tenure systems to derive policy principles that guide evolution of customary law, establishing a clear legislative framework and procedures for recognition; developing procedures to govern transactions in community land; and building the capacity of traditional land governance institutions. However, steps can also be taken by the Borana community to ensure that they are well placed to take advantage of these changes as they are implemented.

While the new Kenya Constitution is working at the national level to decentralize natural resource governance, in practice legislation is already in place in some sectors to redress the weaknesses associated with centrally provided support services and to enable a more localized management of key natural resources. One of the best examples of this is the Water Act 2002 (CAP 372), which provides an established legal framework for decentralizing both water management (discussed in section 4.2 above) and the provision of water itself. Under this Act, the Northern Water Services Board is responsible for the

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<sup>87</sup> Land Policy, (2007)

provision of water services within the Borana community area, under which a number of registered Water Service Providers (WSP) take on the role of direct provision of water as well as the development, rehabilitation and maintenance of the associated facilities. Under the Water Act, Water Service Providers are defined to include companies, NGOs, and community groups formally registered under the Societies Act. 9. Currently the WSP in the Garba Tula/Merti Countys registered with the Northern Water Services Board include<sup>10</sup>: Kinna Kanchoradhi Water Service Provider, Merti Community Water Project, Bisan, Sericho Water Project and Bisan Kulamawe Self Help Society.

### **4.3 Strengthening Cross-Border Committees**

#### **4.3.1 Legal Recognition of Cross-Border Committees**

Although the decisions cross-border committees take have been given some de facto recognition by local government officers, this is on an ad hoc basis as the committees currently have no legal status. As things stand, the work of cross-border committees is limited to local border areas and these structures have no leverage to influence upper levels of decision-making or to protect the rights of pastoralists around land ownership and use. The unstable legal and policy environment in which cross-border activities currently take place has already been discussed, as have the threats to current sharing arrangements from government plans such as the Oromyia Master Plan.<sup>88</sup> Legal recognition of cross-border committees could, in theory, strengthen their role and authority around rangeland management at local level and enhance their position in national policy-making circles.

Giving legal status to these newly formed institutional arrangements would involve complex steps at political, constitutional, legal and practical levels. One step could relate to the creation of by-laws, which entails the formalization of customary rules and principles into a written code that can be legally recognised by a state judicial system. This is however far

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<sup>88</sup> Oromyia Pastoral Area Development Commission (no date) *Integrated Rangeland Development Pilot Project*. Unpublished.

from easy. For example, it may be difficult for people to easily articulate the principles governing their conduct and unwritten rules can be a field of contention between competing interests, so that any attempt to define ‘customary rules’ has to consider and adjudicate possible competing claims. In addition to capturing and writing down rules and principles, mechanisms for monitoring and reviewing their application should also be in place. This clearly adds a further layer of complexity<sup>89</sup>.

The documentation of the participatory rangeland management approach, details a number of steps which should be followed in order to establish a legally binding agreement between government authorities and customary institutions<sup>90</sup>. This long-term process requires at the very minimum an agreement on the delineation of the rangeland over which the cross-border committee will have primary authority; a rangeland management plan defining the rights and responsibilities of all parties; the legal procedures to be followed in the event of disagreement or default by any party; and the duration of the agreement<sup>91</sup>.

The legal recognition of committees also implies fundamental shifts in perspectives and principles from both parties: governments have to recognize customary institutions as partners in legal processes, and customary institutions have to move into the world of formal law. A basic example is that ‘elders’ would need legal definition in order to establish an entity which state law and judicial systems are capable of recognizing. These changes are particularly difficult where there is mistrust between the state and local communities, as is the case in the study area. It is also important to keep in mind that legal recognition itself also poses certain dangers. If the committees are not representative or accountable, if they do not have independence from government or the power to challenge policy in any meaningful

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<sup>89</sup> Ibid

<sup>90</sup> Flintan, F. and A. Cullis (2010) *Introductory Guidelines to Participatory Rangeland Management in Pastoral Areas*. Addis Ababa: ECHO/FAO/Save the Children US.

<sup>91</sup> Ibid

way, then their recognition may in fact further undermining customary institutional arrangements and further weaken, rather than strengthen, pastoralists' land rights.

#### **4.3.2 Capacity Building**

Help with linking up with other communities, for example through cross-border visits, was widely regarded as important. Committees in Gabra and Boran communities were interested in broadening their relationships across the border, and beyond adjacent communities. The Gabra of Forole were particularly keen to work more closely with other communities along the border, such as Dillo and Dukanna and beyond, so that, according to one elder, 'peace and collaboration could be found all along the Kenya–Ethiopia border'<sup>92</sup>.

It was also frequently noted that members of cross border committees would benefit from more substantial technical support in soil and water conservation. One elder explained that historically little had been done to maximize water availability in Borana rangelands because Boran pastoralists traditionally migrate to northern Kenya as soon as the wet season starts. In the past this did not pose any significant problems, but given rangeland degradation these traditional practices are no longer adequate. Help with leadership skills and problem solving techniques was also mentioned by a number of respondents<sup>93</sup>.

#### **4.4 Other actors in the management of natural resources in the Borana Community**

In the absence of strong service provision by government, a number of NGOs have stepped in to meet community needs for natural resource services in northern Kenya, perhaps the most prominent of which is the Northern Rangelands Trust (NRT). This organization is a technical, advisory and implementing organization that has a strong track record in providing support to a number of communities across northern Kenya. In particular these services focus on providing support for the conservation, management and sustainable use of the natural resources; promoting and developing tourism and environmentally sustainable

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<sup>92</sup> Ibid

<sup>93</sup> Ibid

income-generating activities; and alleviating poverty by improving social services, providing employment and establishing community-based enterprises. Although the area of operation of the Trust already encompasses over 3 million acres in northern Kenya, it does not currently extend its operations to the Borana community area, but has expressed a willingness to do so if requested by the local community. NRT has been employing staff members from neighbouring Counties.

The NRT in collaboration with Ol Pejeta Conservancy (OPC) is currently implementing a pastoralism improvement programme that addresses many of the issues and challenges associated with pastoralism that are common across northern Kenya, including Garba Tula. The overall aim of this programme is to reduce livestock densities through improved returns per head; improve rangeland and grazing management by and between communities; and to provide alternatives for livelihood investment, for example through rural banking schemes and linking livestock marketing to conservation. The programme focuses on providing access to improved livestock markets in order to help livestock keepers capture the added value that consumers are willing to pay for beef that has been produced in a conservation compatible manner, which is achieved by linking pastoralist communities with high value markets in major centres using OPC's existing market and distribution systems. Evidence from a pilot project in the N'gwesi community has shown positive results, including strengthened livestock management and significant benefits for conservation.

These initiatives are being implemented in a similar social, economic and ecological environment to Garba Tula, and provide excellent models that could be adapted to the specific Borana community context. Potentially one of the best placed potential service providers currently operating in the Borana community area to facilitate this support is the Resource Advocacy Programme (RAP). RAP is a community-based organization based in Borana community that aims to support improvements in the management and sustainable

use of natural resources in the area, and is IUCN ESARO Dry land Programme's lead partner organization in Borana community under this project. As set out in detail in Annex 3, RAP has a strong legitimacy in the area due to its local base, formation by residents of the area and the community sensitization and awareness raising meetings that it has held with stakeholders throughout the Borana community area. However, RAP has only recently been established (with support from IUCN), and a number of institutional issues remain to be addressed if it is to be effective in addressing the underlying challenges relating to natural resource access, management and use in the area.

The IUCN project in Borana community which is predominantly occupied by the Borana, is attempting to strengthen natural resource governance within this complex and dynamic governance environment, yet the resources of the project – both in terms of human resources as well as financial and material - are very limited. This implies that its interventions designed to improve natural resource governance must be highly strategic as well as realistic<sup>94</sup>.

#### **4.5 Challenges facing the Customary Institutions in Conflict Management**

As Borana community elders have highlighted that, while these customary governance mechanisms were recognized under colonial law, since independence there has been little government acknowledgement of and support for customary institutions and traditional management systems, and government interventions have predominantly ignored local structures and systems for natural resource management. During the same period customary institutions have also had to face increasing challenges to their authority including: disagreement and dissent from community members questioning customary practices and ways of working or decision-making; and from government organizations who have increased their capacity to influence resource access and use pastoral areas. At the same time,

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<sup>94</sup> Mansouriam and Oviedo, (2009) “*Framework on Governance of Protected Areas*” IUCN-GTF p 16

many of the natural resource use issues that these institutions have traditionally addressed are also intensifying, with increasing numbers of people seeking to utilize the same natural resource base, improved market access opening up opportunities for commercial exploitation, and climate change and other issues potentially impacting the viability of the resource base itself.<sup>95</sup>

To the community the formal justice systems is seen as mostly adversarial, focused on the individual, is punitive, retributive and does not uphold collective consensus justice but imposed justice based on written statutes which is completely out of synch with the community used to be guided by customary traditional justice dispensation regimes.<sup>96</sup>

The different conceptualizations of justice and what constitutes a crime between the customary and state institutions has led to some tension which needs a form of legal framework that supports these different conceptualizations. The concept of communal range resources ownership is also not supported in the Kenya constitution which has led to continuous appropriation of pastoralists lands without their consents. This continues to deplete their range resources base which escalates conflicts among the Borana themselves and between them and other pastoralists communities in the region. To overcome these tensions the study findings indicate that the government needs to consider the legal plural framework legislations that will legitimize and uphold customary resolutions and the common range resources ownership rights of the community.<sup>97</sup>

#### **4.6 Community Perceptions about the Future of Pastoralism**

The Borana see pastoralism as closely tied to their cultural identity and livelihoods security. Livestock and livestock products play a significant role in the community. But they are concerned about emerging challenges and threats to pastoralism as a livelihood and land use system. Conflicts, the association of pastoralism with insecurity, the spread of light

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<sup>95</sup> Ibid

<sup>96</sup> ibid

<sup>97</sup> Ibid



weapons and small arms, violence and backwardness, the negative perception of the community by its neighbours, restriction of mobility, population growth both within Borana and in the neighbouring regions, the shrinking of the rangelands through the introduction of competing land uses, climate change and other numerous factors are increasingly making the practice of pastoralism unsustainable. Coupled with a hostile policy and institutional environment at the national level, these factors have undermined the confidence of the Borana about their future.

The numbers of livestock holding within the community have decreased significantly, and this is resulting in changes in herding practices. Many households no longer have enough numbers of livestock to justify mobility over long distances. Some households have no livestock at all and are resorting to farming, especially within the study area where there is significant potential for crop production. Education and the influence of modernization is also having an impact on the viability and continued relevance of pastoralism. Young educated Borana end up in jobs in Urban areas e.g. Nairobi, Isiolo and other urban centres and have little motivation to take up pastoralism.

#### **4.7 Conclusion**

More recently, however, the divide between local government and customary governance mechanisms has begun to be bridged as government has increasingly recognized the importance of pastoral areas (e.g. with the establishment of the Ministry of Development for Northern Kenya and Other Arid Lands), and pastoral leaders have recognized the need and benefits of engaging with government. This rapprochement is demonstrated in the draft National Land Policy (2007), which states *“To secure community tenure to land, the Government shall: ... Invest in capacity building for traditional land governance Institutions.”* Combined with the emerging new regime for community land tenure (discussed in section 4.1 above) this provision signifies a strong shift in the government position towards

supporting and recognizing customary institutions. In Garba Tula, where the Councils of Elders and associated governance mechanisms are still in place and well respected, this presents an excellent opportunity to strengthen and formalize these customary institutions, with the aim of securing a clear and recognized mandate to regulate access and use of natural resources in the area.

Any initiative to strengthen and formalize the role of the existing Borana community customary institutions in natural resource management and access cannot be implemented in isolation of the rapidly evolving situation regarding governance at the national and regional level, in particular the decentralization of significant natural resource governance responsibility to the new County level as set out in the new Kenya Constitution. In this regard, it will be essential that the customary institutions are legitimized within the framework of these broader governance changes. In particular, it will be important to integrate the role of the customary resource management institutions with the emerging role of the new Community Land Boards which, as detailed in the previous section, have a specific responsibility for both owning and managing community lands.

As with the designation of the Borana community area as community land, a variety of other subsidiary governance issues will also need to be addressed if the existing customary institutions are to be successfully legitimized and incorporated into mainstream natural resource management. For example, if the customary institutions are to take up the role of formal natural resource managers they will need to demonstrate that they are fully representative (e.g. addressing issues of gender and youth representation, and sustaining interethnic relationships), and members have the capacity to deal with the complex levels of partnership and negotiation required in resource management. Formal recognition is likely to require written documentation of issues such as resource access arrangements, natural resource management plans and monitoring. In addition, council members currently retain

significant power and authority, with only limited institutional mechanisms to address issues of accountability, and some form of system for monitoring performance and appeals procedures will need to be developed.

## CHAPTER FIVE

### SUMMARY, CONCLUSION AND RECOMMENDATION

#### 5.0 Introduction

This chapter provides a summary of the findings of the case study conducted in Borana community, to investigate and analyze how persistent conflict impacts on the resilience of pastoral and agro-pastoral clans, and to capture perceptions of clans about the future of pastoralism in these context and their ideas on how to comprehensively address conflicts and build lasting peace for livelihoods security and economic development in the region. The specific conclusions and recommendations for the case study area are presented in the respective sections of the study.

#### 5.1 Summary

The study sought to answer the question; how do the Borana of Northern Kenya resolve conflict over resources through Gada indigenous institutions? The study has shown that conflicts over resources among the pastoralists of Northern Kenya has historical and contemporary dimensions of policies that has contributed to shrinking range resource base. This has led to conflicts becoming more frequent as competition among the communities intensifies. In the absence of efficient government services including the judicial services in the region, the Borana community has continued to rely on their age old indigenous institutions in resolving conflicts over the scarce range resources. The indigenous justice institution ensures restorative justice is dispensed timely and in ways that are acceptable and understandable to the community. The justice institutions have checks and balances, where disputes can go from lower level lineage or clan courts to the highest possible level the *Gummi Gayyo*, where the highest official, the *Aba Gada* and his senior councillors adjudicates over the case. Another feature of the customary justice system the study found, is the fact that the customary laws keep evolving as during the eight year pan Borana assembly

of *Gummi Gayyo*, the laws are revisited and amended or remade as is necessary, hence reflecting the reality of the contemporary challenges. Besides, to uphold the integrity of the customary justice regime, errant customary officials or elders who engage in malpractices that undermine the course of justice are removed from offices through public decrees popularly known as *Murra harka fuudhani* or *Buqissu*. The person over whom this decree is made is not allowed to arbitrate in any case until he mends his ways and seeks community forgiveness for his errant deeds and settles the required penalty.

## **5.2 Conclusion**

This study sets out a potential action plan for Borana people and its project partners designed to address the underlying governance issues impacting on Borana's natural resource and livelihood values, and to capitalise on the key opportunities for strengthening natural resources governance, as described in the previous section. Steps that can potentially be taken by this study to support the strengthening and formalization of the role of Borana Community customary governance institutions in natural resource access and regulation have been discussed. In addition to overarching natural resource management access and use issues, other recent legislation has also recognised the value and potential of decentralizing the management of natural resources to the local level.

Pastoral development is difficult, and the experience from Borana seems to be no exception. The main initiative in this respect has been the SORDU project, which was a classical, large-scale livestock development project with well-known inputs, with the various NGOs operating in Borana offering only minor interventions of relevance to the pastoralist. The opinion is unanimous that the SORDU approach to pastoral development has failed, but it has not been replaced by anything else. In the face of the difficulties experienced in the pastoral development projects, national governments in many African countries, including

Ethiopia, have restricted their presence in the pastoral areas to the barest minimum, most typically annual vaccination campaigns.

The development initiative in the pastoral areas now seems to have shifted to the NGOs who are promoting the various non-technical approaches typically promoted by NGOs. The aims are now to change organisational and behavioural features of pastoral societies rather than productivity and production patterns in the rangelands. The presence of NGOs has grown out of famine relief operations, and the development strategies promoted are clearly preoccupied with improving local food security and providing better services, in terms of health and education in particular. Approaches have changed, from transplanting known technologies related to range management and livestock production, to one emphasizing popular participation, local institution-building and local capacity-building in open-ended programmes primarily aimed at self-sufficiency and sustainability.

The most worrying aspect of the current situation in Borana is not that previous development initiatives have failed, that well-intentioned interventions like famine relief have produced unintended consequences like dependency on continued famine relief, that attempts to expand the resource base through water development have set in motion processes of ecological degradation, that the promotion of trade now creates a larger gap between the poor and the rich or that attempts to involve Borana institutions in the development process have failed. The most worrying aspect is that non-government and public agencies alike now seem to be on the verge of giving up and assigning areas like Borana to permanent destitution.

It is true that the problems of the pastoral societies seem intractable, but pastoralism still seems the only viable alternative for large groups of people in the arid and semi-arid parts of Africa. It is therefore necessary to maintain an organized effort to come to grips with the small and the large problems of pastoralism, to assist the Borana in putting the

development issues outlined here back on the agenda and to continue to look for solutions and alternatives.

The issues are of different orders and the solutions require different approaches. There is a question mark about agencies doing things on behalf of the Borana. These are issues, which affect the future of the Borana, and only the Borana can do anything substantial about them. The Borana must be allowed to assume assistance to work their way through a number of very difficult problems. Many of the problems need large-scale solutions and large-scale co-ordination of efforts. In many cases it is necessary to involve institutions with authority over large areas and large numbers of people. It is necessary to strengthen effective institutions with the resources and skills necessary to face these problems. Although the Borana political system does not contain the technical skills required to do something about such problems as bush encroachment, it holds the equally important skills of organizing and mobilizing people, to discuss alternatives and reach viable and realistic decisions. Only a political system based on the legitimacy given to it by Borana culture can ensure the implementation of these decisions.

Critically in Marsabit this includes: access and management of water through the Water Act 2002 (CAP 372), which makes provisions for the establishment of local Water Resource User Associations (WRUAs) that are designed to enable collaboration in water allocation and catchment management and support conflict resolution and cooperative water resource management; and management of forest resources through the Forest Act 2005 (CAP 7), which makes similar makes provisions for the establishment of local Forest Users Associations that should enable communities to participate in conservation and management of forest areas. If implemented both of these community based institutions have the potential to provide a legally based, local mechanism for influencing the access and use of key natural resources in the Garba Tula area.

However, the relevant government institutions mandated to support the development of these community based associations are relatively new institutions with limited manpower and capacity on the ground to initiate change. In the case of water, the Ewaso-Nyiro North Catchment Area Advisory Committee should in theory provide support to the WRUAs, however the catchment area it covers is extremely large and the establishment of associations in a remote and marginal area such as Marsabit County is unlikely to be an institutional priority. Similarly the Kenya Forest Service, under which Forest User, an association is developed, is a relatively new institution and typically focuses its management efforts on major forest areas and critical catchment forests, and at present its ability to influence the use of forest resources in Marsabit County is extremely limited. As a result, this presents another opportunity where this project can support the development of locally based governance mechanisms to regulate access and use of critical resource in Marsabit County.

In general the report affirms that conflict is a major threat to the sustainable practice of pastoralism in the region. The case study illustrates the long history of these conflicts, which have persisted in spite of efforts to address them over the years. It is evident that the persistence of these conflicts demonstrates the failure of governance and the rule of law, which in turn is a function of long-standing marginalization of pastoralist areas by the respective government as evidenced by the failure to establish functional governance and rule of law frameworks in these regions. That failure has encouraged the emergence of local conflict entrepreneurs that take advantage of the conflict situations to advance their own political and business interests and thus frustrate any efforts to find lasting solutions to the conflicts.

The most far reaching impact of the conflicts is that they undermine livelihoods and opportunities for social and economic transformation. In contexts that are inherently difficult, these conflicts undermine proven coping strategies of the communities principally by



restricting mobility, which is critical for the sustainable management of the ASALs. They also undermine the operations and effectiveness of traditional institutions and systems with their social networks within and across neighbouring communities that have traditionally facilitated negotiated access to strategic natural resources, especially in times of ecological stress.

The conflicts and their impacts on the one hand, and the ill-advised and often non-consultative, top-down interventions by governments and other development actors have undermined the confidence of communities on the future of pastoralism as a livelihood and land use system. This has the result of creating hopelessness within these communities, which know that pastoralism is the most appropriate way for them to make use of the ASALs and at the same time see many restrictions and constraints placed in their path by inappropriate policies and interventions as well as other natural factors that they are increasingly unable to manage.

### **5.3 Recommendation**

#### **5.3.1 Government Mechanisms**

It is important to recognize the ongoing transformation of the national governance architecture that is currently underway in Kenya, spearheaded by the passage of the new Kenya Constitution and the various subsidiary legislation that is currently being drafted and passed through Parliament. The decentralization of many governance functions from central government to the new County Councils, which as described earlier will provide a variety of opportunities to strengthen the role of local community institutions in the governance of natural resources. Also of importance is the ethos underlying the shift in Kenya's governance arrangements, which involves the empowerment of grassroots institutions to take greater responsibility for governance as opposed to the traditional predominant role played by central government. Any governance interventions made through the county resolution projects must

necessarily take heed of and capitalize on these broader national governance changes, or else risk being rapidly overtaken by events and becoming irrelevant.

### **5.3.2 Borana Community Mechanisms**

It will also be important to as far as possible build on existing governance mechanisms in the Marsabit area rather than “reinventing the wheel”. In particular, it will be important to build on the customary community common property system of land and natural resource ownership and management, which has been in place for centuries and is widely understood and recognized by a large proportion of the community. As described elsewhere in this study, these customary governance mechanisms, although side-lined and ignored for many years, are still in place within the Borana community and are now being recognized and given legitimacy through the on-going process of national constitutional form. In this regard, it will be important that the government sponsored community resource maintenance projects recognised the growing importance of these customary institutions and by building on these institutions as the kingpin of natural resource governance in Marsabit County.

### **5.3.3 Integral Justice System**

Finally the ideal engagement of the two justice systems through Legal Pluralism is because to use the words of Pimentel:

“Legal pluralism continues to offer great promise, both for the preservation of cultural values and institutions, and ultimately for the establishment of the rule of law, but only if the indigenous legal systems can be engaged in a spirit of mutual respect ... customary law can and will evolve, not through amendment - the way western law is changed, but influence form both inside and outside the community. This flexibility should be embraced not extinguished.”<sup>98</sup>

This engagement proposed by Pimentel is to foster a working relationship between the two legal systems. Failure to bridge this relationship gaps will undermine the roles of the two

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<sup>98</sup> Pimentel, D. (2010). ‘*Can Indigenous Justice Survive? Legal Pluralism and Rule of Law*’, Havard International Review, Summer p 36.

legal systems in discharging their respective justice dispensations as the unresolved relationship between rule systems with different sources of legitimacy legal pluralism undermines both the authority of nascent local governments and the performance of customary institutions. The manner in which legal pluralism is resolved plays a central role in shaping state-society and human-environment dynamics that emerge from decentralization.

The study has shown that the Borana Community has continued to depend on their customary systems for dispensation of justice and it has served them well. The formal justice system of the state, in this case Kenya need to engage this customary justice institution constructively and meaningfully to provide a formal recognition framework for it, so that its decisions on resources management tenure and conflict resolutions are binding upon the state or any other party.

Going forward, there is need for more deepened understanding of these and other conflicts involving pastoralists in order to be able to design strategies that shall address their root causes. This can only be done effectively by engaging local people and their institutions and making them an integral part of the search for solutions. This will require long-term investment and commitment on the part of government and development partners. It also requires that development interventions in these areas be planned in a manner that is sensitive to the realities of conflict. In this connection, capacity building on conflict sensitive development as well as implementation is needed for all development actors working in these areas, and for the communities and their institutions.

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## **Annex 1**

### **Questionnaire**

1) What are the major Challenges faced within your community in terms of security?

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2) What/ Who are responsible for these security challenges (the role of your community/ external forces)? Specifically, what roles are played by the following groups:

a. Women

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b. Men

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c. Children

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d. Elders

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3) What are the consequences of insecurity within your community on the following groups of persons:

a. Women

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b. Children

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c. The youth

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4) What measures are in place to take care of these Security challenges/needs?

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5) What gaps are evident in the measures undertaken?

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6) In your view, do the above-mentioned security challenges warrant the deployment of National Security Institutions (elaborate)

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7) What is the level of community participation / involvement in solving community security challenges?

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8) Specifically, what are the roles of the following groups in solving community security challenges?

a) Elders

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b) Women

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c) Men

.....

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d) The youth

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e) Children

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9) What are the suggestions to tackling insecurity related challenges?

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10. What recommendations would you make that will inform improved management, control and policy regarding the conflicts in your area?

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