



WATER COOPERATION AND PEACEBUILDING IN MARSABIT COUNTY,

1991-2009

BY

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DECLARATION

This project is my original work and it has not been presented for the award of degree at any University.

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This project has been approved by my supervisors.

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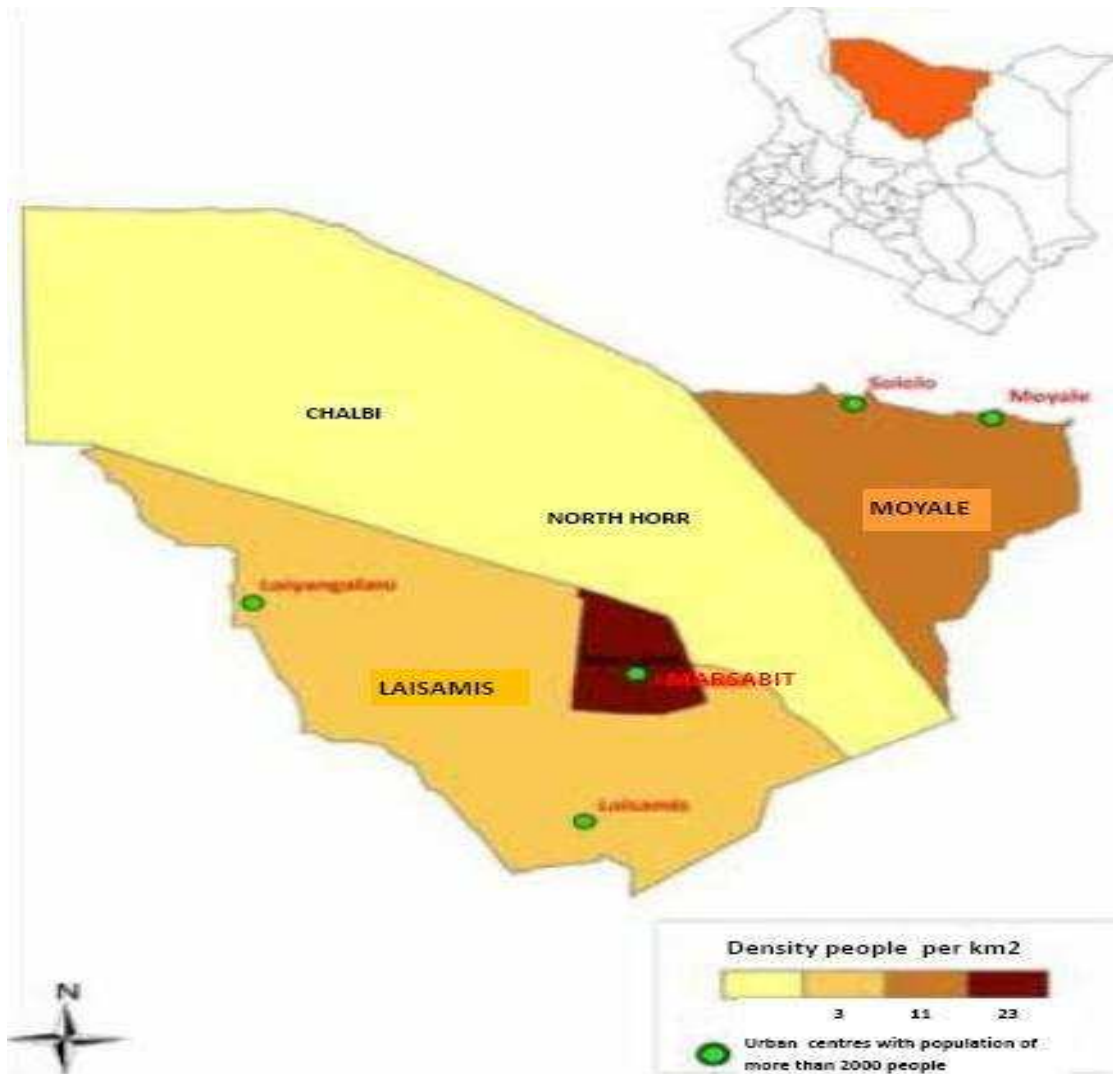
DEDICATION

This project is dedicated to peace loving individuals within Marsabit County who have shared scarce resources and have learnt how to mitigate conflict through sharing of this resource.

ACKNOWLEDGEMENT

I would like to thank my supervisor Prof Vincent Simiyu and Dr. Misigo. I would also want to extend my deepest gratitude to my Wife and daughter for giving me the necessary support and understanding during the entire period of this research. Finally I would like to thank my friends and family for the help they offered in this research.

MAP OF MARSABIT COUNTY



Source: <http://www.kenyampya.com/userfiles/images/counties/marsabit/marsarbit>

ABSTRACT

The goal of this research is to examine how peace initiatives have capitalized on the existence of shared interests, in order to transfer them into opportunities to promote peace. To offer insight on how cooperative processes have been designed and implemented in a conflict-sensitive way and finally To provide lessons learned about challenges and successes of water cooperation as a means to building peace in Marsabit County

Water is a fundamental resource, indispensable to all forms of life on earth. Reliable freshwater resources are crucial to human and environmental health, as well as economic development. Almost every sector of human activity depends on water resources, from agriculture to industrial production and power generation. Furthermore, water resources are shared at the local, national and international levels, as water flows ignore state boundaries. Examining the Borana traditional water allocation policies in different parts of Marsabit County, this research suggests that water can be used as a platform to induce cooperation over larger political issues, ultimately settling conflicts in the county between different communities. The main premise is that water has been used as a catalyst for peace and cooperation rather than conflict. Evidence is provided to support this claim through examples from Marsabit County. This study will utilize Peter Haas theory of environmental cooperation. The study utilized both primary and secondary source of data.

These studies focused on the review of the relation of these issues to local and intra-state conflict, not peaceful relations between groups originating from sharing water resources. It might be possible to envisage that water is a source of conflict, but in this context, the study examine if water has in any way contributed to peace building. Water as a source of international conflict seems to loom large not only in the public mind but also in political circles. The current trend for water co-operation as a conflict prevention tool and the idea of water as a pivotal factor in conflict prevention is lacking in the literature. Considering the increased significance of war in relation to water issues, one might foresee a heightened interest in researching on water and conflict prevention area.

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LIST OF ABBREVIATIONS

NGO	-	Non Governmental Organization
CBO	-	Community Based Organization
GDP	-	Gross Domestic Product
OLF	-	Oromo Liberation Front
EU	-	European Union
MP	-	Member of Parliament
EPRDF	-	Ethiopian Peoples Revolutionary Democratic Front
KANU	-	Kenya African National Union
PC	-	Provincial Commissioner
GSU	-	General Service Unit
OCPD	-	Officer Commanding Police Department
UNDP	-	United Nation Development Program
ITDG	-	Intermediate Technology Development Group

CHAPTER ONE: INTRODUCTION

1.1 Introduction

In the semi-arid and arid climatic conditions of Marsabit County, water resources management is a contentious issue between parties sharing the resources. Solving water problems has been identified as a topic of common interest to the Borana clans. In response to this, various water related peace initiatives were established as part of the multilateral track aimed at enhancing peace in Marsabit County. The governmental and non-governmental institutions have started several bilateral and regional water cooperation projects with the aim of contributing to peace in the region. Some have identified cooperation over water resources as a particularly fruitful entry point for building peace. The implementation of water-related projects involving all communities living in Marsabit is therefore seen as a hopeful sign and related projects have received substantial funding from the international and local donor communities.¹

Water is a fundamental resource, indispensable to all forms of life on earth. Reliable freshwater resources are crucial to human and environmental health, as well as economic development. Almost every sector of human activity depends on water resources, from agriculture to industrial production and power generation. Furthermore, water resources are shared at the local, national and international levels, as water flows ignore state boundaries. Water management, therefore, requires actors to integrate and balance competing interests. Without a mutual solution, water users can find themselves in dispute and even violent conflict. Still, water-related disputes must be considered within the broader political, ethnic and religious context. The fact that cooperative action overwhelms conflicting incidents and that cooperative water management institutions prove resilient even in conflict environments, has led researchers to focus on the potentialities that water could hold for peacebuilding.²

To capture the nature, causes and impact of violent conflict in Marsabit County, it is important to understand its physical environment, and socio-economic activities.

¹ K. Conca, 'Environmental cooperation and international peace', in P. Diehl and N.P. Gleditsch (Eds.), *Environmental conflict: An anthology*, Oxford, UK: Westview Press, 2001.

² A.T. Wolf, A. Kramer, G. Dabelko and A. Carius, 'Managing water conflict and cooperation' in The World Watch Institute (Ed.), *State of the World 2005: Redefining global security*, New York & London: WW Norton & Company, 2005.

Much of the county is on a plain lying between 300 and 900 meters above sea level which slopes gently towards the southeast. The west and north plains are bordered by hills and mountain range. Hill masses also protrude from the northern plains. The area around Lake Turkana is rifted and forms part of the Great Rift Valley system. The county is dominated by seasonal rivers.³ Marsabit is located in the driest region of the country. It receives 200 mm to 1000 mm of rain annually for the lowest and highest elevations, respectively. The county is ecologically divided into four zones. Human settlement is concentrated around the humid and sub-humid mountain areas. Here, the main source of livelihood is agro-pastoral farming. Approximately 75 per cent of the county is classified as rangeland and the main form of land use is extensive grazing. Eighty per cent of the county's residents are pastoralists who derive their livelihood from livestock as well as livestock based industries.⁴ The nature of economic activities in Marsabit makes water to be the most basic relation between the communities that live in the area. Water plays for human health, food security and securing basic incomes and thus for ensuring human security. Sustainable water management in social, environmental and economic contexts of Marsabit County can thus help prevent potentially related conflicts and is a prerequisite for establishing the socio-economic foundations for peace.⁵

1.2 Problem Statement

With a plethora of literature accentuating the inevitability of conflict and war over environmental resources, the notion of employing the environment as a catalyst for peace has been deemed unrealistic. Water has been presented in the literature as being a reason for war and conflict.⁶ Former United Nations Secretary General Boutros Boutros-Ghali is quoted as saying, "The next war in the Middle East will be fought over water, not politics".⁷ Kofi Annan, another former UN Secretary General, said in

³ Pkalya, R., Adan, M. and Masinde, I., *Conflict in Northern Kenya: A Focus on the Internally Displaced Conflict Victims in Northern Kenya*, Nairobi: Intermediate Technology Development Group – East Africa, 2003.

⁴ Haro, G., Doyo, G. and McPeak, J., "Linkages between Community, Environmental, and Conflict Management: Experiences from Northern Kenya", in *World Development*, 33(2), 2005, p. 286.

⁵ G. Baechler, "Why environmental transformation causes violence: A synthesis", *Environmental Change and Security Project*, Report 4, 1998, pp.24-44.

⁶ Cooley, K. "The war over water", *Foreign Policy*, no. 54, 1984, pp. 3-26.

⁷ A.T. Wolf, A. Kramer, G. Dabelko and A. Carius, "Managing water conflict and cooperation", in The Worldwatch Institute (Ed.) *State of the World 2005: Redefining global security*, New York & London: WW Norton & Company, 2005, p.214

2001 that “fierce competition for fresh water may well become a source of conflict and wars in the future”, while also stressing that the ‘water problems of our world need not be only a cause of tension they can also be a catalyst for cooperation and peace.’⁸ According to researchers at Oregon State University, a total of 1,831 water-related wars have occurred between states in the years 1948-1999. Two-thirds ended after peace negotiations that led to cooperation in terms of sharing the water resource.⁹ Water resources inherently ignore man-made boundaries and re-emphasize the importance of cooperation or equal benefit sharing of these resources. While current peace processes focus primarily on issues of trade, commerce and diplomatic relations, water cooperation at its core is intrinsic to society livelihood and wellbeing.¹⁰ There is a need for peace-building scholars to discover unseen pathways to achieve the goals of sustainable peace.

Studies touching the issues of water and conflict and in the extension the debate on their influence on societal and political conditions are vast. These studies focused on the review of the relation of these issues to local and intra-state conflict, not peaceful relations between groups originating from sharing water resources. It might be possible to envisage that water is a source of conflict, but in this context, the study wonders if water has in any way contributed to peacebuilding.

Water as a source of international conflict seems to loom large not only in the public mind but also in political circles. The current trend for water co-operation as a conflict prevention tool and the idea of water as a pivotal factor in conflict prevention is lacking in the literature. Considering the increased significance of war in relation to water issues, one might foresee a heightened interest in researching on water and conflict prevention area. There are a few researches that explicitly deal with the water and conflict resolution complex. Most of the widely known of these are compilations of texts or reprints of articles already published in academic reviews that deal with water as a source of conflict. Little material is found in a plethora of disciplines, from specialised journals on water management or policy, to peace and conflict studies and

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ A. Jägerskog, *Why states cooperate over shared water: The water negotiations in the Jordan River Basin*. Sweden: Department of Water and Environmental Studies, Linköping University, 2003. Available at <http://liu.diva-portal.org/smash/record.jsf?pid=diva2:20723>.

anthropology that specific target was as a tool for peace building. However, while in theory cooperation over water resources could act as a pathway for building peace in Marsabit County, it is not well understood how the peacebuilding effects of such cooperation can best be harnessed, supported and sustained. This is why a study of this kind is needed particularly so for semi-arid areas like Marsabit County.

1.3 The objectives of the study

1. To examine how peace initiatives have capitalised on the existence of shared interests, in order to transfer them into opportunities to promote peace;
2. To investigate how cooperative processes have been designed and implemented in a conflict-sensitive way.
3. To examine challenges and successes of water cooperation as a means to building peace in Marsabit County.

1.4 Justification of the Study

In the semi-arid to arid climatic conditions of Marsabit County, water resources management is a contentious issue between parties sharing the same water resources. Solving water problems has been identified as a topic of common interest to the Borana, Rendille, Gabra, and Burji. Governmental and non- governmental institutions have started several bilateral water cooperation projects with the aim of contributing to peace in the region. Some have identified cooperation over water resources as a particularly fruitful entry point for building peace. The implementation of water-related projects involving the Borana and their neighbours is therefore seen as a hopeful sign and related projects have received substantial funding from the international donor community and NGOs, who had also acted as organizers of the peace processes in the county and yet little is documented. This study aims to contribute to scholarly knowledge and also give relevant information needed for reinforcing existing initiatives promoting water cooperation between the communities living in Marsabit. The study will also provide insights on the challenges posed by lack of water and how the deficit can be harnessed for peacebuilding.

1.5 Scope and Limitation of the Study

The study period is 1991 to 2009. In 1991 due to war in Ethiopia, the pastoral communities intensified purchase of small arms. Traders brought these arms on foot and sold them to the Borana, Rendille, Gabra, Burji, Samburu, Dassanetch and Turkana. This intensified conflict between the Borana and their neighbours. In 2009 there was the Declaration of Dukana and Dillo and Makon and Walda Peace Declaration of 28th July 2009. The declaration was; “We the Borana, Gabra and our neighbours pledge to live peacefully with one another and to share natural resources of water”. Given the limited time and resources, the wide range of issues that emerge at the interface of water and clan politics, the study confines itself to its objective and to Marsabit County. This was chosen keeping in mind various factors: i) History of communities living in the county both in terms of commonality and differences; ii) History of water dispute/dispute settlement between different clans in the county; iii) Politicisation of water within each clan with cross boundary implications; iv) Civil society action within each community with regard to water; v) Accessibility to the region within this limited time and resource. While we recognise that internally, water conflicts within each county in Northern Kenya are assuming serious proportion, and externally, the geo-politics of water spill far beyond Marsabit County to other counties, these concerns though extremely important, remain beyond the limited scope of this study.

1.6 Literature Review

According to Ross Davidson, water conservation is emerging as an attractive concept of conflict resolution to politicians and conservationists alike. Ross argues that the importance of natural resources competition is paramount in understanding and analysing present conflicts. Using the example of the Middle East and methods of solving them, the author believes that water use parks offer a creative concept for bridging communities together, supporting civil society and influencing policymaking.¹¹ Could such concept for bridging communities together be harnessed for the Marsabit County case?

¹¹ Ross, D., *The Missing Peace: The Inside Story of the Fight for Middle East Peace*, New York: Farrar, Straus and Giroux, 2005, p. 760.

Bitterman used the Syria and Israel case to argue that water provides these countries with economic and social benefits in the long term. That water preserve under Syrian sovereignty would avoid the environmental impact which Israel fears would jeopardise its sources of water with Syria being brought to the water's edge and that this will assist bridge the gap that existed between the two countries.¹² Bitterman suggests that water can bring together two historical enemies. Was this the similar case for Marsabit?

According to Renger the water related peace park between Syrian-Israeli assisted formulate a regional cooperative water strategy for the Jordan River Basin that ameliorated water concerns and de-secure water. An agreement based on reasonable and equitable distribution of the water resources according to international law and standards. This will provide a platform for multilateral cooperation that the region requires, bringing about stability and sustainable development of the region.¹³ If water resource provided a platform for multilateral cooperation, this study will investigate if water points in Marsabit provided any platform for inter-communal cooperation.

According to Haaretz water related peace parks are a preliminary step in overcoming water disputes and building the foundation for a regional cooperation strategy that will encompass all riparians of the Jordan Basin. Haaretz further argues that water must be perceived as a shared resource that must be managed in real partnership between the Israelis and Arab countries and that this approach will facilitate pragmatic solutions to the conflict in the region.¹⁴ If according to Haaretz, water is a shared resource, this study will endeavour to show how it can bring peace in Marsabit.

According to Wolf sharing water will assist find solutions and that it would enhance creative joint management of the resource, and restrictions due to security and

¹² Bitterman, M., Lopez, V., Wright, F. 'A Bridge to Peace: Strategic Sustainable Development As An Approach To Conflict Resolution', Master's thesis, 2009, p. 24, viewed January 2011 [www.bth.se/fou/cuppsats.nsf/all/87a3abe22c007642c1257308005351e2/\\$file/Thesis_Conflict_Resolution.pdf](http://www.bth.se/fou/cuppsats.nsf/all/87a3abe22c007642c1257308005351e2/$file/Thesis_Conflict_Resolution.pdf).

¹³ Renger, J. 'The Middle East Peace Process: Obstacles to Cooperation over Shared Waters', in Scheumann, W. and Schiffler, M. (eds.), *Water in the Middle East: Potentials for Conflicts and Prospects for Cooperation*, Berlin: Springer- Verlag, 1998, pp. 47-55,

¹⁴ Haaretz, 'Sink or Swim', 2008, viewed January 2011 <http://www.haaretz.com/print-edition/opinion/sink-or-swim-together-1.248224>.

sovereignty would be dissolved.¹⁵ Wolf argues that utilising the mutual dependence on shared water resources between Israel and Syria would form a basis for developing dialogue and cooperation on conflict management.

According to Medzini strengthening the role of civil society in promoting water related peace would enhance peacemaking and demilitarising areas parts of the Jordan River Basin would allow access for individuals and thus facilitate an effective rehabilitation effort which will have the support and knowledge of the people. This would encourage information flow to avoid engendering distrust.¹⁶ These initiatives promote good governance (top-down) must be combined with activities aimed at empowering weaker actors (bottom-up). This assists all parties to take part in negotiations and monitor processes. The epistemic role of NGOs in providing an arena of data sharing and exchange should be allowed to provide participatory engagement of all stakeholders and actors and offer a more coherent voice to question and influence policymaking.

According to Ali water related peace parks will assist measure attitudes towards reserves and parks domestically and regionally as models of cooperation amongst the general public in Israel and Syria. This will engage the local communities and society in decision-making and promote any peace scheme from within rather than solely as imposed solution.¹⁷ Water enhances economic viability, effectiveness and acceptability of peace.

According to Kumar water cooperation in the form of peace parks or other initiatives is a necessary endeavour to bring about peace-building in the current political context of the Syrian-Israeli conflict.¹⁸ The prerequisites of such an endeavour would provide a complete political settlement coupled with equal representation and contribution of

¹⁵ Wolf, A. T. “Hydrostrategic” Territory in the Jordan Basin: Water, War, and Arab- Israeli Peace Negotiations’, Paper presented at a conference: *Water: A Trigger for Conflict/A Reason for Cooperation*, Bloomington, Indiana, 1996, 7-10 March, last viewed January 2011 <http://web.macam.ac.il/~arnon/Int-ME/water/CES%20Hydrostrategic%20.htm>

¹⁶ Medzini, A. and Wolf, A. ‘Towards a Middle East at Peace: Hidden Issues in Arab-Israeli Hydropolitics’, *Water Resources Development*, vol. 20, no. 2, 2004, pp. 193-204.

¹⁷ Ali, S. and Cohen, M. (2010) ‘Salvaging Peace with Syria’, Policy Innovations, last viewed December 2010 http://www.policyinnovations.org/ideas/commentary/data/peace_park

¹⁸ Kumar, K. ‘Scientific Cooperation and Peace Building: A Case Study of USAID’s Middle East Regional Cooperation Program’, *USAID Conference Promoting Democracy, Human Rights, and Reintegration in Post conflict Societies*, 30-31 October 1997.

all parties.¹⁹ Such initiatives may help to promote communication and cooperation as an early part of the peace process, building confidence and ultimately improving inter-community relations after reaching a peace agreement.

According to Westing, water conservation must not be perceived as only a consequence, but rather a component of peace-building, in the case of the Syrian-Israeli conflict. Water might support post-conflict peace-building measures together with the more conventional peace-building tools.²⁰ Water cooperation offers creative visions to resolve border disputes in the Golan and can act to counter widespread concerns that water scarcity will lead to conflict. As this means of conflict resolution illustrates, the potential for conflict can be transformed into a potential for peace.

Deudney and Matthew highlighted the linkages between resource scarcity, ecological degradation, and conflict. In this regard they have been supported by some of the earlier literature on environmental security that gained prominence toward the end of the cold war. Any solutions presented in this vein tend to focus on how to improve environmental conditions as a means of addressing the conflict.²¹ While this is certainly a laudable goal where environmental factors are part of the conflict, the approach easily falls prey to critics who insist that environmental factors such as water are a minor part of conflicts. In our view, we ask whether shared water can act as a catalyst for peace.

According to Conca and Dabelko, the environmental peace-building narrative suggests that mutual knowledge of resource depletion and a positive aversion to such depletion leads to cooperation.²² According to the authors the main premise of water peacemaking is that there is certain key attributes of water concerns that would lead acrimonious parties to consider them as a means of cooperation. Thus water issues

¹⁹ *Ibid.*

²⁰ Westing, A.H. 'Establishment and management of trans frontier reserves for conflict prevention and confidence building', *Environmental Conservation*, vol. 25, no. 2, 1998, pp. 91-94.

²¹ Daoudy, M. (2008) 'A Missed Chance for Peace: Israel and Syria's Negotiations over the Golan Heights', *Journal of International Affairs*, vol. 61, no. 2, pp. 215-234.

²² Conca, K. and Dabelko, G. (eds.) *Environmental Peacemaking*, Washington, DC: Woodrow Wilson Press, 2002.

And Dabelko, G. (2006) 'From Threat to Opportunity: Exploiting Environmental 'Pathways to Peace'', *Environment, Peace and the Dialogue among Civilizations and Cultures Conference*, 9-10 May 2006, Tehran, Republic of Iran.

could play an instrumental role even in cases where the conflict does not involve environmental issues. As water resource theorists have frequently observed, this pathway often occurs despite perceived disputes of ownership or rights to water that may occur locally. Even adversaries who are aware of the dire impact of depletion are forced to be cooperative on water and avert any water wars.

Scholars such as Brock have focused instead on understanding shifting notions of sovereignty in environmental politics. Brock argues that there is also emerging literature on the growth of transnational networks of civil society in diluting state sovereignty for environmental ends.²³ However, the power of such efforts in transforming the debate on environmental conservation to larger political reconciliation has eluded scholars.

According to Eldon and Gunby water is fundamental to the viability of other basic services such as health and education and could provide a very visible channel for establishing state legitimacy and peace in Africa's marginalized areas. Water security is one possible quick hit approach to peace-building in conflict prone areas.²⁴ They point out that improved access to water was part of the political settlement of the post independence Zimbabwe conflict and central to people's expectations of the state. Eldon and Gunby argue that the Zimbabwe case was a successful story of how water could be used to achieve peace. Can the lessons from Zimbabwe work in Kenya's Marsabit?

Welle, Malik and Slaymaker argued that evidence from Ethiopia, Sudan and Uganda points to the prevalence of conflicts around various aspects of water access and control even after national political peace agreements have been implemented, suggesting that water is a key priority in people's livelihoods.²⁵ They hold that, the importance of water in society can be imputed from such conflicts and that there is need for assessments as a starting point for peace-building in societies affected by

²³ Brock, L. (1991) 'Peace through parks: the environment on the peace research agenda', *Journal of Peace Research*, vol. 28, 1991, pp. 407- 423.

²⁴ Eldon, J. and Gunby, D., *States in Development: State Building and Service Delivery*, Final Report, London: HLSP, 2009.

²⁵ Welle, K., Malik, B. and Slaymaker, T., *Water for Recovery and Peace Programme, PACT Sudan, External Evaluation, Final Report*, London: Overseas Development Institute, 2008.

war. Welle, Malik and Slaymaker's recognition that there is need to assess how water can be used as an element of peace is a starting point for this research on Marsabit.

1.7 Theoretical framework

This study will utilize Peter Haas theory of environmental cooperation.²⁶ Haas posits that since environmental issues are often predicated on scientific knowledge, they can lead to the emergence of epistemic communities, which are able to dissociate themselves from political bickering and catalyze cooperation. He argues that it was the emergence of such communities of knowledge that led to sustainable peace. Haas's theory insists that water and environmental issues have at least a potential for injecting a degree of objective and depoliticized discourse in negotiations.²⁷ As noted by Haas, environmental harm can be considered a mutual aversion for stakeholders in conflicts, and thus there are some prospects for potential cooperation based on this premise as well.

For the purposes of this study where we are concerned with water issues and peace, we argue that, by virtue of multiple clan jurisdictions, could either help resolve a conflict or maintain existing peace.²⁸ In relations across community divides, societies may find themselves at a cross roads of choices that span the entire spectrum of conflict and collaboration. Whatever the circumstances, communities have the choice to come together to mitigate tensions in symbiotic cooperation or peaceful conflict resolution. Cooperation theory provides a natural landscape for conflict containment that cannot be achieved through the isolation and segregation created by walls or through any other fortification of manufactured political divides that only entrench disagreement and conflict. Thus, it is important to understand the conditions in which cooperation ignites and peace in Marsabit are created.

²⁶ Haas, Peter, *Saving the Mediterranean: The politics of international environmental cooperation*. New York: Columbia University Press, 1990.

²⁷ Axelrod, Robert *The complexity of cooperation: Agent-based models of competition and collaboration*, Princeton, NJ: Princeton University Press 1997.

²⁸ Macleod, John. 1988. Reaching for peace in the landscape. *Landscape Architecture Review*, September/October, 1988, pp. 18-22.

1.7.1 Conceptual Framework of Water Conflict

Resource scarcity has often been framed as a leading cause of civil strife and conflict by political scientists, sociologists, and planners alike.²⁹ Poverty as a result of droughts, or a general paucity of natural endowments, has frequently been correlated with a rise of belligerence in societies. Environmental literature is also rife with terms such as resource wars, water wars, green wars, and so on. Administrative planners have generally shielded themselves from such discourse by relegating these matters largely to the domain of political theorists. However, there is a growing realization among administrative planners that underlying ecological indicators are the means by which communities often express their concerns at planning forums.³⁰

Even so, the environmental concerns that are expressed in the planning arena are often taken in isolation of the overall sociopolitical conflict that may be undermining the fulfillment of the planning objective. While scholars of planning have a strong literature on collaboration and participation for achieving cooperative outcomes, the focus of this section is generally on immediate disputes surrounding water use. Water points in Marsabit, quite literally are life givers, carrying freshwater which is fundamental to life and the very basis of socio-economic wellbeing. In Marsabit, water points are also a deeply ingrained part of cultural and religious life. But water points know no man-made borders and communities freely across to use them.

However, these water points are also embedded in the socio-political context of post colonial, post partition Marsabit where a number of mental and physical borders are a reality today. Hence water points do not purely remain an ecological concern. It gets imbued with notions of security and insecurity, domestic stability and instability, legitimacy and illegitimacy. Consequently, disputes over control and use of trans-boundary water points send ripples across communities, people, and countries in the region. Who has the rights over water points and their resources? Who can access water? Who can water their livestock? Competing claims have pitted citizens, communities, states, diverse interest groups against one another within countries as

²⁹ Lewicki, Roy, Barbara Gray, and Michael Elliot, *Making sense of intractable environmental conflicts*, Washington, DC: Island Press, 2002, and Lohmann, Susanne, "Linkage politics", *Journal of Conflict Resolution* 41, 1991, pp. 38-67.

³⁰ Beatley, Timothy, and Kristy Manning, *Ecology of place*, Washington, DC: Island Press, 1997.

well across countries in Africa. Interwoven within these conflicts are other questions of marginalization of some regions in terms of development and management of water.

1.8 Study Hypotheses

1. Peace initiatives in Marsabit capitalized on existing shared interests to promote peace
2. Cooperative processes were designed and implemented in Marsabit in a conflict-sensitive way
3. Water cooperation as a means to building peace in Marsabit faced various challenges and successes

1.9 Research Methodology

This study was begun with some broad inquiry on the inter-clan relations from three vantage points of common history, ruptures, and people's suffering. These were then used as the axis to probe through a body of literature, develop a more sharpened research design and conduct field work. As a starting point of research, information was collected and analysed using secondary and primary sources. Secondary data was collected from electronic database, using reference lists in libraries as well as manually sifting through key journals and finally meeting and tapping existing networks, relevant organisations, and individuals who were working on water and conflict issues in Marsabit. This was further supplemented with primary material like government water policy documents, newspaper reports, published and unpublished documents and reports of local Non-governmental Organizations.

Field work was conducted in Marsabit County. Aimed at covering a wide gamut of issues, the study used qualitative interview method with key stake holders such as relevant government officials, Non-governmental Organizations and Community Based Organizations, activists, academics working in the field, and media persons. A comprehensive interview guide/probe was prepared, and the question was kept open

ended. This was sought through oral narratives³¹ in form of field interviews³² and eye witness account or observations³³ of Marsabit residents. The population sampling frame included men and women. Due to the nature of the study and limitation of funds, about sixty (60) informants were selected from all the six divisions in the county and 10 from each division.

The informants and respondents sampled on the basis of on the of non-probability or purposive technique at the discretion of the researcher the criteria being age, gender, and past water related peace issues and those mentioned in the archival and documentary sources. Equally past or retired government officials were interviewed. The snowball sampling technique was used to identify the informants using the above technique; he or she was asked to identify those with knowledge of similar experience. By use of a sample question guideline, the informants were allowed to talk freely after introduction of the topic. The researcher guided the informants on sub-topics recording of information using a tape recorder was done as informants give their oral testimonies.

³¹ Further details on the interpretations and definitions of oral sources would include the works of J. Vansina, *Oral Tradition and its Methodology* in J. Ki-zerbo (ed) UNESCO *General History of Africa* Vol. 1: *Methodology and African Prehistory* (California, 1981), pp. 142-156 and *Oral Tradition as History* (Nairobi, 1985).

³²Cf. David Henige, *Oral Historiography* (London, 1982), for the preparation required of a field researcher, see also Paul Thompson, *Voice of the Past* (Oxford, 1978).

³³ Observation is a method of data collection in which the researcher and his assistants record information as they witness events, objects and situations during the study period. Cf. C. Lin, *Foundation of Social Research* (New York, 1976).

CHAPTER TWO

MARSABIT COUNTY: THE PEOPLE AND WATER CONFLICT

2.1 Introduction

A major presence in Marsabit County is the multiplicity of armed non-state groups that fight over water resources. These groups have been key players in the inter-communal water related violence that has severely undermined human security and the state capacity needed to guarantee it in Marsabit County. Although water related conflicts have existed in Africa in the pre-colonial, colonial and immediate post-independence periods, there has been resurgence because of persistent droughts and since the collapse of the Somali state. The increased incidence of water related wars raise serious concerns about the use of water points as peace tools. This chapter captures the major findings of the communities that live in Marsabit. The first section is an overview of the people's history. The second section contextualises the water wars in Marsabit.

2.2 Marsabit Location and People

Marsabit County is situated in the former Eastern Province in Kenya, with approximately an area of 78,078 kilometer square. It is about 560 kilometers from Nairobi the capital of Kenya. According to the National census report of 2009, the population of the county is 291,166 (male 52%, female 48%). Marsabit County is composed of different ethnic groups, namely the Gabbra, Rendile, Borana, Turkana, Samburu, Burji, El Molo, Dassanach, and Waata. Other communities such as the Meru, Kikuyu, Luo, Luhya and many other Kenyan communities inhabit Marsabit town although they are minority in the area. Marsabit town is the headquarters of the county.

The Marsabit County is by and large a semi-arid area with 80 per cent of its population practicing nomadic pastoralism. 10 per cent practice subsistence agriculture mainly around Mount Marsabit, Mt. Kulal and Hurri Hills, which receive comparatively higher rainfall. About 7 per cent are involved in commerce trade and the rest are salaried employees. Considering the percentage people engaging in pastoralism and subsistence agriculture, water is a very important commodity to the inhabitants of the county. Pastoralists' villages famously known as manyattas are

found around watering points, market centers and along major roads and townships.³⁴ The population distribution or density in the county naturally varies with different locations depending on the availability of water. In the past the county has experienced recurring drought which was largely responsible for increased rural to urban influx and destocking among the pastoralist communities in the county. Since pastoralists place a high value on livestock, destocking re-ignites the traditional aspects of raiding each other or because the politicians and business people take advantage and incite them negatively, as there is resources scarcity, these nomadic people are constantly therefore marked by inter-community and clan conflicts.³⁵

Marsabit County is one of the poorest in the country. The main causes of the poverty are frequent severe droughts, inadequate water supplies for domestic and non-domestic use, low agricultural production due to harsh climatic conditions, lack of reliable and lucrative market for livestock products, few employment opportunities, over dependency on relief food and livestock economy, unutilized natural resources, illiteracy, poor infrastructures that are hardly maintained, insecurity and conflicts, which include ethnic clashes and cattle rustling.³⁶ All these signs of underdevelopment can be seen clearly through education services, health and poor infrastructure. For instance, there are only 128 primary schools and 19 secondary schools in the county. In the primary there are 40,432 students enrolled. The secondary students enrolled are 1,201. Comparing the number of pupils in primary schools and enrolment in secondary, 39, 231 students drop out of school.³⁷

In the medical field, doctor to population ratio is 1 to 10,000 in Marsabit town and 1 to 63,825 in the rest of the County. Under five years mortality rates are 70/1000 in Marsabit. The prevalent diseases in the county are Malaria, intestine worms, diseases of the respiratory tract, and diarrhoea. Most of these diseases are caused by lack of

³⁴ Republic of Kenya, *Draft National Policy for the Sustainable Development of Arid and Semi Arid Areas*, Nairobi: Government Printer, 2004.

³⁵ Centre for Conflict Resolution (CCR), *A Conflict Map of Kenya. An overview of the Conflict Situation in Kenya: Issues, Extent and Effect*, The Great Lakes Parliamentary Forum on Peace (AMANI Forum), 2002.

³⁶ USAID, *Fact Sheet: Mandera - Gedo Cross-Border Conflict Management Initiative, Peace in East and Central Africa (PEACE) Activity Managing African Conflict*, Nairobi: Development Alternatives Inc. November, 2005.

³⁷ Oba, Gufu, "The Importance of Pastoralists' Indigenous Coping Strategies for Planning Drought Management in the Arid Zone of Kenya," *Nomadic Peoples*, 5(1), 2001, pp. 89-119.

proper sanitary facilities. Large proportion of population more than 70% does not have access to pit latrines with most disposing the human waste in the bush.³⁸ This is a very dangerous practice since most of these bushy areas are the main catchment areas where the community gets water.

2.3 The Major Ethnic Groups in Marsabit

Marsabit County is home to the Rendile, Gabbra, Samburu, Turkana, Borana both from Kenya and Ethiopia. Rendille, Gabbra and Borana are the majority while Turkana and Samburu are the minority and sometimes migrate into the county in search for pasture and water for their livestock. The Gabbra live mainly in the Chalbi desert of northern Kenya, between Lake Turkana, Moyale and Marsabit, extending into the Bulla Dera plain east of the Moyale-Marsabit road, and the Mega escarpment in southern Ethiopia. They are called the lions of the desert. They share portions of this area with the Borana, Rendille, Samburu, Dassanetch and Turkana. The Gabbra are an Eastern Cushitic group from the southern Ethiopian highlands. They are closely related both historically and culturally with the Sakuye people.³⁹ They speak Borana language, an Oromo language of the Cushite family. Their culture is entwined with their care of camels. They are still primarily pastoralists although some have adopted other forms of livelihood especially around the Hurri Hills. Even though, the most educated in comparison to the rest of the ethnic groups in the county, they are the most who keep their traditional cultures as compared to the Borana people.

The Borana are a pastoralist ethnic group living in southern part of Ethiopia and northern part of Kenya. They are a sub-group of the Oromo speaking people and represent one of the two halves of the original Oromos. They are nomadic, but in the recent years some Borana have taken up agriculture as part of their economic activity. Oromos in northern Kenya first entered the region from southern Ethiopia during a major migratory expansion in the late 16th century. They then differentiated into the cattle-keeping Borana and the camel-keeping Gabbra and Sakuye. The Borana speak

³⁸ Ellis, James E. and Swift, David M., "Stability of African Pastoralist Ecosystems: Alternate Paradigms and Implications for Development," *Journal of Range Management*, 41(6), 1988, pp. 450-459.

³⁹ Oba, Gufu, "The Importance of Pastoralists' Indigenous Coping Strategies for Planning Drought Management in the Arid Zone of Kenya," *Nomadic Peoples*, 5(1), 2001, pp. 89-119.

Borana, which is part of the Cushitic branch of the afro-asiatic family of languages of the Cushitic family.⁴⁰ They are closely related to the Rendille ethnic group.

The Rendille are an ethnic group which inhabit the Kaisut Desert. They are often referred to as the holders of the stick of God. They are nomadic pastoralists with some members of the family roaming with their camels across the desert. The Rendille believe that they belong to the desert not by mistake but because it is their promised land. This is clearly reflected in their popular morning prayers where they state categorically that, “your people God cannot climb mountains, cross seas but remain in this promised land in which you have looked after our fore fathers, us and our children’s children.” Rendilles have age sets fourteen years apart. An age set is a group of men circumcised together and remain in the warrior-hood for 14 years before they are allowed to marry and give way to another age set.⁴¹ Pure Rendilles are almost extinct with their language confined mainly in Kargi and Korr.⁴²

Another ethnic group that lives in Marsabit although in small numbers are the Turkana. The Turkana are a Nilotic people of the northern part of Kenya. In the Marsabit County, they are mainly in Loiyangalani and Moite. They raise mainly goats and donkeys. In their oral traditions they designate themselves as the people of the grey bull, after the Zebu, the domestication of which played an important role in their history.⁴³ Traditionally, both men and women wear wraps made of rectangular woven material, but each sex adorns themselves with different objects. Men carry also stools which are used as simple chairs.⁴⁴ But these stools also serve as headrests, keeping one’s head elevated from the ground, and protecting any ceremonial head decorations

⁴⁰ USAID, *Fact Sheet: Mandera - Gedo Cross-Border Conflict Management Initiative, Peace in East and Central Africa (PEACE) Activity Managing African Conflict*, Nairobi: Development Alternatives Inc. November, 2005.

⁴¹ Johnson, Douglas H. and Anderson, David M., *The Ecology of Survival: Case Studies from Northeast African History*, I.B. Tauris, 1988.

⁴² Bouh, Ahmed M. and Mammo, Yared, “Indigenous Conflict Management and Resolution Mechanisms on Rangelands in Somalia Regional State, Ethiopia,” *Nomadic Peoples*, 12(1), 2008, pp. 109-121.

⁴³ Ehret, C., *Southern Nilotic History: Linguistic Approaches to the Study of the Past*, Evanston: North Western University Press, 1971.

⁴⁴ Lamphear, J. E., *The inter-relations which brought about the Jie genesis*, Department of History seminar Paper 2. Nairobi, 1970.

from being damaged. Women will customarily wear necklaces, and will plait their hair in a faux-mohawk style which is often braided and beaded.⁴⁵

The other groups are the Samburu and the Dassanetch people. The Samburu are related to the Maasai people. Their name Samburu is of Maasai origin and is derived from the word “Samburr” which is a leather bag used by the Samburu to carry a variety of their belongings. They are semi-nomadic pastoralists who herd mainly cattle but also keep sheep, goats and camels.⁴⁶ In the 19th century European travelers often referred to the Samburu as Burkinjeji or people of the white goats. The final ethnic group that is worth mentioning is the Dassanetch. The Dassanetch people live north of Lake Turkana, the region where Ethiopia borders Kenya and Sudan. They are Ethiopia’s most southern people.

The Dassanetch have a great resemblance to the Nyangatom of West-Ethiopia, with whom they are almost identical in appearance, way of life, economy, social structure, and physical appearance.⁴⁷ The only real difference is the language. The Dassanetch speak a completely different language and are actually the only Cushitic-speaking group of the Omo Valley. Most probably the two peoples are not related, but have had a profound influence on each other.

The most important ritual of the Dassanetch is the so-called dime. Taking part in the dime ritual are those men who have daughters that have already reached puberty. After the ceremony, which takes six weeks, the participants are upgraded to the status of great men, or those that may engage in politics.⁴⁸ The dime ritual is directly connected to the upcoming marriage of the daughters and consists for the larger part of slaughtering large quantities of cattle. By the end of the ceremony the participants are extremely well-dressed, with ostrich feathers in their clay hair, oxtails around their arms, leopard skin over their shoulders, as well as the same skirt they wore during

⁴⁵ Oral interview, Wako Tato, Marsabit, 30/12/2011.

⁴⁶ Smith, Andrew B., “Origins and Spread of Pastoralism in Africa” *Annual Review of Anthropology*, Vol. 21, 1992, pp. 125-141.

⁴⁷ Oba, Gufu, “The Importance of Pastoralists’ Indigenous Coping Strategies for Planning Drought Management in the Arid Zone of Kenya,” *Nomadic Peoples*, 5(1), 2001, pp. 89-119.

⁴⁸ Mahmoud, Hussein A., “Seeking Citizenship on the Border: Kenya Somalis, the Uncertainty of Belonging, and Public Sphere Interactions”, Council for the Development of Social Science Research in Africa (CODESRIA), 12th General Assembly, Yaounde, Cameroun, December 7-11, 2008.

their circumcision many years earlier. In their hands they will carry wooden shields and a stick with a phallus symbol.⁴⁹

2.4 The Ownership of Water in Marsabit Count

There is no explicit ownership of water among the people of Marsabit. In theory any stock owner has a right to live with whom he pleases where he pleases. However, certain areas may be associated with certain clans which are well represented there, but any person is free to migrate to these places. When it comes to water usage most of these communities believe that it belongs to all of them. This ideal is modified only slightly in practice. If a man wishes to migrate to an area where he has not been before and where he has no close friends or kinsmen, then the other inhabitants will accept him without question provided that water is not too scarce.⁵⁰ If it is scarce, but he approaches the other inhabitants first to put his case to them, then they can hardly object.

It is only when he ignores such social conventions at the height of the dry season that his action is liable to lead to bad feeling. A man whose stock has certain contagious diseases should warn his neighbors and take care to restrict his cattle to certain tracts of land and water points, preferably not leading them through areas where others are likely to water their own cattle.⁵¹ In discussing the ownership of water points, then, it is more relevant to speak of the duties the individual stock owner is expected to observe towards other local inhabitants, than of rights he can claim. At certain places in many dried up river beds, water can be obtained by digging a few feet. Such places are referred to here as water points, and the wells dug in the sand at these points are referred to as water holes.⁵²

⁴⁹ Johnson, Gregory A., "Decision-Making Organization and Nomad Camp Size," *Human Ecology*, 11(2), 1983, pp. 175-199.

⁵⁰ Marshall, Fiona, "Origins of Specialized Pastoralist Production in East Africa", *American Anthropologist*, 92(4), 1990, pp. 873-894.

⁵¹ Scoones, Ian and Graham, Olivia, "New Directions for Pastoral Development in Africa", *Development in Practice*, 4(3), 1994, pp. 188-198.

⁵² Johnson, Gregory A., "Decision-Making Organization and Nomad Camp Size," *Human Ecology*, 11(2), 1983, pp. 175-199.

By digging a water hole and maintaining it, a man exerts an explicit right to use it as he pleases. He can make any arrangement he likes to share it with another stock owner who waters his stock on different days and helps in its upkeep. Any casual user should try to get his permission before watering his stock, and if he misuses it a fierce quarrel and even fighting may ensue. On the other hand, a quarrel may also break out if the original digger of the hole tries to refuse permission. Examples of both types of quarrel are relevant to later chapters, and they show how even the work of digging a water hole does not give the digger exclusive rights of ownership; rather, it gives him certain privileges.⁵³ Once the hole is neglected, perhaps after being fouled by a wild animal or after it has been destroyed by a spate of the river, the spot is open to anyone who cares to start digging.

The communities in Marsabit County live in small settlements which typically contain between four and ten stock owners, and their families and herds. A herd is taken to the water point daily in the wet season, every second day in the dry season, or even every third day in the really dry parts of the country and then it is driven to areas which afford good water resource. The spread of the settlements over a wide area ensures that all those herds which are centered on one water point compete as little as possible for grazing to avoid any conflict.⁵⁴ Although as discussed above, mechanisms are put in place to avoid conflict, water wars are a common factor in the inter-ethnic relationships in Marsabit Count.

2.5 The Concept of Water Wars in Marsabit

Hegemonic concepts exist within every society. They structure the society's cognitive maps and therefore contribute to shape the society's perception of the world, its definition of the issues it faces and the analyses it can achieve. The idea of wars being waged for water has grown over the past history of the people of Marsabit to the point that it could become a new hegemonic concept. This idea is now widely contributing to shaping the perceptions of the communities present in Marsabit situations. This section will investigate the issue of water wars as a hegemonic concept. It will first

⁵³ Mahmoud, Hussein A., "Seeking Citizenship on the Border: Kenya Somalis, the Uncertainty of Belonging, and Public Sphere Interactions", Council for the Development of Social Science Research in Africa (CODESRIA), 12th General Assembly, Yaounde, Cameroun, December 7-11, 2008.

⁵⁴ Oral interview, Digaltech Suusum Nanito, 30/12/2011.

detail what a hegemonic concept is, how it is constructed and propagated. It will then turn to the issue of water wars and examine the pre-existing hegemonic concepts that provided the background enabling the emergence of this hegemonic belief in Marsabit. The reason is because access to and reliability of water sources is a key influence on the livelihood sustainability in Marsabit County. Appropriate development of water resources is thus an important component in promoting sustainable socio-economic activities in the county. Water scarcity continues to be a critical problem in Marsabit and the county has no significant sources of water. The key water sources for the county are springs which include Babuli springs which supplies Marsabit town, Lake Paradise Springs, Kituruni, Songa, Mt Kulal springs and Kalacha Springs. Other sources are Lake Turkana, rock catchments, pans and dams. Underground water is also a key source of water for the county. It will then examine the manner in which the water war concept has been challenged over the past years and how this matches a war of position in the county. It will tentatively identify the categories of social actors who benefit from either the water war or the water peace discourse and the categories of social actors who propagate these concepts.

Water as a hegemonic concept is not created in a vacuum in Marsabit County. Water emerges within a context where other hegemonic concepts have already taken hold and where other wars of position were being waged. Before examining empirically the emergence of the concept of water wars in Marsabit, other hegemonic concepts concerning water and concerning war will need to be reviewed. These, and the accompanying wars of position, are the soil in which the concept of water wars is taking root and is growing. The idea according to which water should be used where it is needed has a long history in any human society and for this case in Marsabit County and has led to the emergence of a hegemonic concept of water development. The water literature is rife with introductory declarations concerning the great quantity of freshwater available on the planet and the crucial necessity of redistributing this wealth more adequately. Globally, freshwater is abundant. Each year an average of more than 7,000 cubic meters per capita enters rivers and aquifers. Unfortunately it does not all arrive in the right place at the right time.⁵⁵

⁵⁵ Turner, R. K. and Dubourg, W. R. "Water Resource Scarcity: an Economic Perspective", CSERGE Working Paper PA, 1999, pp. 93-06.

The literature on water in Marsabit implies that there is a right place and a right time for water. It implies a clear hierarchy of values concerning water users. Some are deemed to be more deserving than others. Indeed, water in Marsabit will be used wherever it flows, but some uses such as for agricultural purpose is less important than livestock and human beings in need of drinking water, food, and sanitation. Such an anthropocentric vision of water is widely shared by most social actors. It is also coherent with the conservationist trend in environmentalism. Two types of environmentalism can be distinguished in the field of water, that of conservationists and that of preservationists. Conservationists want to protect nature as a resource for human use whereas preservationists seek to protect nature itself from human use.⁵⁶

The idea of water as a basic human right in Marsabit is well entrenched as a hegemonic concept around the planet. For instance, the right of thirst has long been enshrined in Muslim law and is not questioned in any international forum. I mention Muslim law because most of the inhabitants of Marsabit are Muslims.⁵⁷ The right of thirst comes from the traditional fact that drinking water is most obviously a physical resource, one of the few truly essential requirements for life. Regardless of the god you worship or the color of your skin, if you go without water for three days in an arid environment your life is in danger. And water's physical characteristics confound easy management.⁵⁸ Drinking water is a cultural resource, of religious significance in many societies. A social resource, access to water reveals much about membership in society. A political resource, the provision of water to community members can serve important communication purposes. And finally, when scarce, water can become an economic resource.⁵⁹ Religiously, in the Old Testament the Bible is filled with references to springs and wells, their importance clearly evident from the fact that each was given a special name.⁶⁰ Jewish law regarding drinking water has been traced

⁵⁶ Milton, K. *Environmentalism and Cultural Theory: Exploring the Role of Anthropology in Environmental Discourse*. London and New York, Routledge, 1996.

⁵⁷ Faruqui, N. I., Biswas, A. K., and Bino, M. J. (eds.) *Water Management in Islam*, Tokyo: United Nations University Press, 2001.

⁵⁸ As Carol Rose has often observed, water is difficult to manage with property doctrine, as well, See Carol M. Rose, *Canons of Property Talk*, or, *Blackstone's Anxiety*, 108 *YALE L.J.* 601, 611 (1998).

⁵⁹ Carol M. Rose, *A Dozen Propositions on Private Property, Public Rights, and the New Takings Legislation*, 53 *WASH and LEE L. REV.* 265, 271 (1996) .

⁶⁰ Malmberg, *supra* note XX, at 77 ("Despite its indubitable importance water is sparsely treated in anthropological literature."). Personal Communication, Elinor Ostrom, April 29, 2005.

as far back as 3,000 B.C.⁶¹ The basic rule was one of common property. As reflected in the later writings of the Talmud, “Rivers and Streams forming springs, these belong to every man.”⁶² Because water from natural sources such as springs and streams was “provided by God,” commodification of these waters would be tantamount to desecration selling divine gifts.⁶³

Many important sources of water came from wells, however, where human labour was necessary to gain access to the water. In these cases, drinking water was managed as a common resource, though not an open access resource. Within each community, Jewish law prioritized access according to use highest priority to drinking water, then irrigation and grazing.⁶⁴ Importantly, however, the very highest priority access was granted to those in need, regardless of whether they belonged to the well’s community of owners or not.⁶⁵ This so-called “Right of Thirst” is reflected in the text in Isaiah, “Let all you who thirst, come to the water!”⁶⁶ Such a policy might be termed a “Rawlsian straw,” in that any traveler in an arid region could foresee a situation where he or she might need water from strangers for survival.⁶⁷ In satisfying the Right of Thirst, rules of access still applied, for villagers’ necessary drinking requirements took priority over outsiders’.⁶⁸ But outsiders’ thirst took precedence over local grazing and other uses.

Islamic water law is quite similar to Jewish water law in both substance and significance. Indeed, the Arabic word for Islamic law, “Sharia,” literally means the

⁶¹ Melanne Andromedea Civic, A Comparative Analysis of the Israeli and Arab Water Law Traditions and Insights for Modern Water Sharing Agreement, 26 DENV J. INT’L L and POL’Y 437 (1998).

⁶² As quoted in Civic, supra note XX, at 440. See also Carol M. Rose, Given-ness and Gift: Property and the Quest for Environmental Ethics, 24 ENVTL. L. 1, 12 (1994) (describing that, from the “gift vision,” “all gifts may be approached with a special kind of care and respect, and it is in this sense that the vision of the environment-as-gift might help to supply some norms of self-restraint in the use of commons – using the gift, to be sure, but having enough respect not to waste or pollute it.”).

⁶³ Norms for Drinking Water Among Indigenous Populations in the Arid Middle East, at 1-2.

⁶⁴ Civic, supra note XX, at 440. As Carol Rose describes, “Although the members of a commonly used hunting ground or fishery may treat the resource as a “commons” among themselves, with respect to the rest of the world that resource is a property... [C]ommon property regimes effectively pool access to resources, and for this reason these regimes are particularly adapted to managing risk.” Rose Newfangled, supra note XX, at 48, 66.

⁶⁵ Civic, supra note XX, at 440. This is an example of what Carol Rose has called a “limited commons,” commons with the community but property to outsiders, Carol Rose, Romans, Roads, and Romantic Creations, 66 SPG Law and Contemp. Probs. 89, 107-08 (2003).

⁶⁶ Isaiah 55:1.

⁶⁷ Civic, supra note XX, at 440.

⁶⁸ Available at www.reference.com/browse/wiki/Sharia

“way to water.”⁶⁹ As the Koran relates,⁷⁰ “Anyone who gives water to a living creature will be rewarded”. To the man who refuses his surplus water, Allah will say: “Today I refuse thee my favor, just as thou refused the surplus of something that thou had not made thyself”. The Right of Thirst reinforced this message. Since water is a gift from God to all people, sharing water is a holy duty.⁷¹ As with Jewish water law, norms governed water usage and users. Priority was given for drinking, then domestic needs, then agriculture and grazing, favoring needs in the community over outside users.⁷² As one scholar has described, “access to water, at least for the purpose of human sustenance, is considered to be a right of all persons, within and without the community, and whether on private or publicly held property.”⁷³

Islamic water law was largely adopted into the legal code of the Ottoman Empire. It is still followed by Bedouin in the Negev, where water to quench thirst, is an unalienable right, and may not be refused from any water source,⁷⁴ and by the Berbers in Morocco, where drinking water for humans is sacrosanct and neither may be denied anyone for any reason at any time.⁷⁵ Studies of communal lands in Marsabit have found remarkably persistent norms of drinking water management into the present. While wells and boreholes are often built today for private purposes, they are made available for communal drinking. As this study of drinking water for the region has concluded, Cutting across all the different tenurial systems is the notion that no one should be denied access to safe drinking water.⁷⁶ Interestingly, the impetus for sharing is sanction based rather than religious.⁷⁷ Field researchers report a general fear that denying water to someone could lead the drinking well to be poisoned either literally

⁶⁹ As quoted in Civic, *supra* note XX, at 442.

⁷⁰ *Ibid.*

⁷¹ *Ibid.*

⁷² Civic, *supra* note XX, at 439.

⁷³ Aaron T. Wolf, *Indigenous Approaches to Water Conflict Negotiations and Implications for International Waters*, 5 *International Negotiation* 357, 363 (2000).

⁷⁴ Wolf, *supra* note XX, at 363.

⁷⁵ Bill Derman, *Cultures of Development and Indigenous Knowledge: The Erosion of Traditional Boundaries*, 50 *AFRICA TODAY* 67 (No. 2, 2003). As another anthropological study in Zimbabwe reported, “If the borehole in Vhudzi village breaks down, how can we let them suffer? We allow them to fetch water from our borehole.” Nontokozo Nemarundwe and Witness Kozanayi, *Institutional Arrangements for Water Resource Use: A Case Study from Southern Zimbabwe*, 29 *J. OF SOUTHERN AFRICAN STUDIES* 193 (March 2003).

⁷⁶ Rose Newfangled, *supra* note xx, at 67 (“CPRs have a great range of enforcement techniques, ranging from gossip to ostracism to violence”).

⁷⁷ People did not seem to distinguish between the two. Derman, *supra* note XX, at xx.

through adding a poison or spiritually through witchcraft.⁷⁸ The net result is that drinking water remains a non-economic good, with no requirement of payment or gifts for access.

This is not to say, however, that it is an open access resource. There are clear norms to ensure water quality such as prohibitions against doing laundry or making bricks near wells.⁷⁹ And, in times of scarcity, communities may restrict the amount of water gathered, banning, for example, the filling of large drums or restricting withdrawals to 20 liters per family.⁸⁰ Moreover, people must ask permission from the owner prior to using the well. If they gather too much water, use it for a different purpose than requested, or are unhygienic near the well, then their access rights are limited. As one person described, “You go to someone you are in good books with.”⁸¹ Outright bans, however, are rare for fear of retribution. One well owner who denied access to his water found a dead dog floating in the well two days after locking the gates.⁸² Anthropologists have documented similar practices of sharing drinking water elsewhere in Southern Africa.⁸³ As a study of the Mhondoro (also in Zimbabwe) concluded,⁸⁴ The obligation to share extends to wells which are privately dug and on the functionally private land. Based on the practice of sharing it extends to boreholes constructed for principally commercial or dedicated use. The duty to share cuts across kinship and village borders. It was spelt out particularly clearly in drought periods. It

⁷⁸ Nemarundwe and Kozanayi, *supra* note XX, at 202-204. See also G.O. Anoliefo et al., Environmental Implications of the Erosion of Cultural Taboo Practices in Aska-South Local Government Area of Anambra State, Nigeria, 16 J. OF AGRICULTURAL AND ENVIRONMENTAL ETHICS 281, 291 (2003) (describing the traditions of the Awka in Nigeria, “The cultural practices and taboos associated with the streams are still respected and the streams are still kept clean by the people... The cultural taboos did not allow persons to bath, wash clothes, or wash household materials in the same stream where people had to fetch drinking water.”)

⁷⁹ Nemarundwe and Kozanayi, *supra* note XX, at 202-204.

⁸⁰ *Ibid.*

⁸¹ *Ibid.*

⁸² Malmberg, *supra* note XX, at 79. (“This accords well with the customs of Hottentots and other pastoralists in South Africa, where at least until recently any person who dug a well or cleared a spring made this his property, and all those who wished to use it had to ask for his permission as long as he stayed at and guarded the water. But he was obligated to see that no stranger in need was denied access to it.”)

⁸³ Pinimidzai Sithole, Environmental Cultures of Development and Indigenous Knowledge: The Erosion of Traditional Boundaries in Conserving Wetlands in rural Zimbabwe, IASCP 10th Biennial Conference, available at http://dlc.dlib.indiana.edu/archive/00001490/00/Sithole_Environmental_040526_Paper148.pdf.

⁸⁴ Nandita Singh, Water management traditions in Rural India: Valuing the unvalued, 18th European Conference on Modern South Asian Studies (July 2004) available at <http://www.sasnet.lu.se/EASASpapers/21NanditaSingh.pdf>.

is the view of most villagers that one risks having the water source poisoned if it is not shared.

This satisfies the essential criteria to qualify as a hegemonic concept. Anyone evoking the possibility of a distribution system that would not ensure a minimum supply of freshwater and food to every human being would apologize for mentioning such a thought. Were that person to advocate such an idea, they would be regarded as monstrous.⁸⁵ This ideologically hegemonic concept of water and food as basic human rights has provided the rationalization for what has become another hegemonic concept in Marsabit. This is water development. Every individual in this area has a basic right to food and water. Water development would enable the inhabitants to get clean water for their livestock and domestic needs. Water as a hegemonic concept in Marsabit rationalizes complex realities and excluding of some ethnic groups. It sometimes can explain transferring populations from water-scarce areas by actions of war.⁸⁶ Wars arise in Marsabit because all groups living in the county want to maintain the hegemony of a very specific definition of water points.⁸⁷ Such a concept of water development provided stabilizing distortions and rationalizations of complex realities, inconsistent desires, and conflicts. The economic benefits derived by some social groups from water points are not the only driving force supporting its propagation war in the county but water plays out prominently.

A main achievement of community power in Marsabit has been the persuasion of the population concerning the legitimacy of the use of violence. In the communities living in this county, the idea according to which the community leaders have a monopoly over the legitimate use of violence has become hegemonic. This legitimacy or lack of it confers the community leaders status of declaring war, murder or execution to what would otherwise be, members of the enemy ethnic group.⁸⁸ The ethnic group carrying out violent acts strives to label them as acts of war in order to secure that legitimacy over water points. The water war discourse started growing in a fertile soil where a very specific definition of water point had become hegemonic and where the only

⁸⁵ Roy, A., *The Cost of Living*, London: Flamingo, 1999.

⁸⁶ Oral interview, Diid Athi, Matari Marsabit, 30/12/2012.

⁸⁷ Lustick, I., *Unsettled States Disputed Lands, Britain and Ireland, France and Algeria, Israel and the West Bank Gaza*, Ithaca and London: Cornell University Press, 1993.

⁸⁸ Badie, B., *L'Etat importe*. Paris, Fayard, 1992.

legitimate violent conflicts were believed to be wars between opposing ethnic groups. Of course other hegemonic concepts contributed to this fertile ground, the idea according to which the council of elders is the only institution spelling out the rules of social control and determining who will exercise this social control demonstrates how it rarely reflects reality.⁸⁹

The eventual growth of the idea of water wars in Marsabit as a hegemonic concept must be analyzed within the context of other pre-existing and well-entrenched hegemonic concepts that distorted and rationalized unequal distributions of resources and specific distributions of power in various societies. These acted as building blocks supporting the growth of new concepts, they limited the range of options that appeared possible and they provided fences limiting the issue definitions. Community leaders and their subjects wanted water at all cost, therefore states might wage war in order to secure it.⁹⁰ Such an issue definition precluded any consideration of the fact that water points could have a different meaning for various social groups, which communities may not be the only social actors that benefit from water, which other social groups may actually benefit from it more than the communities that claim such water points depending on their war power.

According to Naff and Matson, “Water conflicts will cause the wars of the twenty-first century. Water runs both on and under the surface of politics in any society.”⁹¹ This is more than just a statement. It is the object of numerous arguments and counter-arguments in the current society, and much effort has been devoted either to proving or disproving the causality between water scarcity and water wars and analyzing the role played by water in inter-ethnic or inter-state relations. Clearly the idea of a causal link between water scarcity and war has grown over the past years in Marsabit to the point that it could become ideologically hegemonic. In March 2001, even Kofi Annan was declaring “and if we are not careful, future wars are going to be about water and not about oil”.⁹² This illustrates that the concept was not confined to academic circles

⁸⁹ Migdal, J. S., *Strong Societies and Weak States: State-Society Relations and State Capabilities in the Third World*, Princeton, N.J.: Princeton University Press, 1988.

⁹⁰ Oral interview, Digalo, Digaltich, 30/12/2011.

⁹¹ Naff, T. and Matson, R. C., *Water in the Middle East: Conflict or Cooperation?* Boulder, Colo., Middle East Research Institute, University of Pennsylvania, Westview, 1984, p. 181.

⁹² Annan, K., Question and answer session after statement (SG/SM/7742) at the Federation of Indian Chambers of Commerce and Industry, New Delhi, 15 March, 2001.

and was structuring the thoughts of high-level political officers. The idea that competition for water in water-scarce areas constitutes the greatest danger of war was growing to be taken as a given, an unquestionable fact of life.

This school of thought led to what Ohlsson has called the numbers game. As the causal link between water scarcity and war remained unchallenged, the relevant question appeared to be quantitative.⁹³ How much renewable water existed within the boundaries of every ethnic group in Marsabit? How much constituted scarcity? The ratio of the quantity of renewable water within a community's territory to that community's population was held as an indicator of water scarcity. This indicator of water stress was essentially based on an estimate of the quantity needed in pastoral economic production.⁹⁴ It is worth noting that although there is no specific literature that focused on Marsabit County water wars, it is a subject that can't be neglected as will be seen in the next chapter.

2.6 Conclusion

Within this chapter the discussion centers on the communities living in Marsabit and the concept of water as hegemony. The point on water wars go a long way to supporting the argument of water as a tool of peace in Marsabit. It is clear that water as has already been noted, provide a range of unique pastoral economic benefits, which cannot be found in similar areas without water resources. Specifically the chapter allows the researcher to develop a reasonable argument which sees peace practitioners think critically about how they can utilize water points to make successful peace. Once there is peaceful use and sharing of water, then peacemaking processes in Marsabit are more likely to be successful.

It is therefore essential to have this support on hand to provide advice in this way and support the peace practitioners. This will be mentioned on several occasions throughout this study. It is therefore important to slowly factor in the water management in the people's mind-set. However it is my argument that why should

⁹³ Ohlsson, L., *The Turning of a Screw*. Rapport de synthese final du seminaire du Centre technique agricole, Wageningen: "Gestion equitable, efficiente et durable de l'eau pour le developpement agricole et rural en Afrique sub-saharienne et dans les Caraibes", Sept. 20–25. Ohlsson (1999).

⁹⁴ Amery, H., *Water, War and Peace in the Middle East: Comments on Peter Beaumont*. *The Arab World Geographer*, Vol. 4, No. 1, 2001, p. 51.

this be the case? What will happen if this is not done? Does it simply mean society degenerates to war? This will be the case that will be discussed in the next chapter which describes various wars in Marsabit. The born of contention being water or conflict informed by water influence

CHAPTER THREE

CONFLICT IN MARSABIT COUNTY: HOW WATER PLAYS OUT

3.1 Introduction

Marsabit County seems to be Kenya's forgotten land. The region is part of 80 per cent of the country's land mass that account for 70 per cent of national livestock production, whose estimated value is US\$1 billion.⁹⁵ Livestock from the area contribute about 16 per cent of the country's Gross Domestic Product (GDP). However, violent conflicts over water and other resources involving pastoralists have become widespread and increasingly severe not only in Marsabit but in the entire northern Kenya. Dependent on livestock for their livelihoods, pastoralists are largely nomadic or transhumant. Access to pasture and water is essential for the survival of their livestock. These resources are, however, becoming increasingly scarce and over-utilized, yet they have to be shared amongst the pastoralist's communities. Conflicts associated with competition over water are widespread in the region and becoming of increasing concern. To prove this fact, this chapter discusses some of the conflicts that occurred in Marsabit in relation to water availability and use.

A couple of quotes from the reviewed sources will suffice as a justification of the focus of water as causing conflict:

“So, while no war on water has occurred, there is ample evidence that the lack of clean freshwater has led to occasionally intense political instability and that, on a small scale, acute violence can result. What we seem to be finding, in fact, is that geographic scale and intensity of conflict are inversely related.”⁹⁶ Ohlsson also noted that, “Countering the widely held opinion that water scarcity entails prime risks of inter-national conflicts over shared water resources, it is argued that the risk of conflicts within countries in fact is larger.”⁹⁷

⁹⁵ Republic of Kenya, *Draft National Policy for the Sustainable Development of Arid and Semi Arid Areas*, Nairobi: Government Printer, 2004, p. vi.

⁹⁶ Wolf, Aaron T. (1998) “Conflict and cooperation along international waterways”, *Water Policy*, Vol. 1, Issue 1 1998, p. 251-265.

⁹⁷ Ohlsson, Leif. (ed.) *Hydro politics: conflicts over water as a development constraint*, London : Zed Books; Dhaka: Univ. Press, 1995.

3.2 Water Wars in Marsabit

Ismail Serageldin, former Vice President for Special Programs of the World Bank warned in 1995 that: “If the wars of this century were fought over oil, the wars of the next century will be fought over water.” In truth, the challenge of freshwater scarcity and ecosystem depletion is rapidly emerging as one of the defining fulcrums of Marsabit County politics and conflict. As the population of both livestock and human beings increases in Marsabit unprecedented freshwater abundance is being eclipsed by a new age characterized by acute disparities in water wealth, chronic insufficiencies, and deteriorating environmental sustainability.

Just as oil conflicts played a central role in defining the history of the 1900s, the struggle to command increasingly scarce, usable water resources in Marsabit shaped the destinies of societies that live in the area. It is not only in Marsabit that water is a key issue, water is overtaking oil as the world’s scarcest critical natural resource. But different from oil which is substitutable, water is pervasive, irreplaceable by any other substance, and utterly indispensable.⁹⁸ In light of increasing water scarcity, conflict over water is inevitable. Indeed, since Serageldin’s pronouncement more than fifteen years ago, there has been conflict over water in Marsabit.

Violent pastoral conflicts in Marsabit have escalated not only in terms of the level of violence, but qualitatively. Unnecessary killings remained an order of the day for long deliberately targeting both women and children, often involving rape which traditionally would have been taboo. It often has a commercial motive whereby national and indeed regional livestock trading network are benefiting from the conflict. The participants in the conflict are not homogeneous, they exhibit different characteristics. Some are hired fighters and warriors of specific ethnic groups as well as members of foreign liberation fronts. These are liberation movements based in neighbouring countries that are waging wars against their governments. As well as those on the raids, they include those who have invested by providing arms. Locally-

⁹⁸ Solomon, S. *Water: the epic struggle for wealth, power, and civilization*, New York, New York: HarperCollins, 2010.

based arm sellers supply weapons, sometimes on credit, to fighters or warriors to pay later probably from the raided livestock.⁹⁹

They acquire readily available light weapons and ammunitions from neighbouring countries, particularly Ethiopia, Somalia and Sudan that have experienced political unrest and internal wars. Other sources of weapons include those supplied to the locally-based Kenya Police Reservists, which find their way into the hands of these fighters or warriors. Some conflicts are more overtly political. Prime movers may be politicians and warlords who exploit the water situation or politicize water use rather than businessmen or elders and prophets of specific ethnic groups. With regard to timing, traditional conflicts normally occurred after drought, during periods of serious impoverishment, following age-set initiations, and at the beginning of the rainy season. While commercial raids occur when livestock prices are high in large markets, in the case of political conflicts, timing is dependent on strategic considerations such as cross-border raids and insurgencies.¹⁰⁰

The county's proximity to Ethiopia has increased contacts with Oromo groups, leading to conflicts over water and grazing resources. The infiltration of the Oromo Liberation Front (OLF) a guerrilla outfit that has been waging low-intensity war against the Ethiopian government into the regions where Marsabit borders with Ethiopia has introduced another dimension of conflict commonly to be referred to as insurgencies.¹⁰¹ Pastoralist communities are in constant conflict especially during the dry spell when livestock tend to concentrate in the limited sections with pasture and water. But people no longer raid just to replenish their stock but also to kill and maim while enriching themselves. Commercialization of livestock raids has taken its toll in the county. The players in the conflicts in Marsabit include Rendille, Gabra and Turkana, who all live in the county and Borana from both Kenya and Ethiopia

⁹⁹ Centre for Conflict Resolution (CCR), *A Conflict Map of Kenya. An overview of the Conflict Situation in Kenya: Issues, Extent and Effect*, The Great Lakes Parliamentary Forum on Peace (AMANI Forum), 2002.

¹⁰⁰ Kralti, S. D and Swift, J., "Understanding and Managing Pastoral Conflict in Kenya: A Literature Review". Institute of Development Studies, University of Sussex, 1999., Undertaken under DFID contract CNTR 986863 <http://www.eldis.org/fulltext/pastconf.pdf>

¹⁰¹ Kralti, S. D and Swift, J., "Understanding and Managing Pastoral Conflict in Kenya: A Literature Review". p. 54.

communities as well as the Samburu who attack into the southern part of the county.¹⁰²

The economic and social impacts of conflict in the county are many. They include reduction of farming activities, concentration of livestock in small areas where there is water and pasture, stock theft, looting and destruction of property, reduced business activities, environmental degradation, inaccessible health services, increased number of school drop outs, displacement of people, stalled development projects, and highway banditry. The impact has resulted in widespread poverty and adversely affected human security.¹⁰³ Hunger is often severe and could last for as long as eight months, particularly between January and April and from September to December during the dry spell. Food is available only between May and August. For the rest of the months, affected communities receive relief food from the state, civil society organizations and other aid agencies.¹⁰⁴

Traditional conflict resolution measures have been attempted to contain the problems of violence and deaths caused by water scarcity and drought which kills large numbers of animals leading to stock theft. The Modogashe Declaration, for example, was passed in 2001 by pastoral communities in Eastern and North Eastern provinces. Given the incompatibility of local systems with official justice institutions, communities in Isiolo, Marsabit, Moyale, Wajir and Garissa had to develop their own ways and means to stop and prevent conflicts. During years of intense conflict in the region in the early 1990s, a small group of women began to meet with local market women to discuss conflict prevention. They later merged into Peace Groups.¹⁰⁵ These groups first approached elders in conflict communities, gradually expanding their peace-building and mediation efforts to youths, sheiks, business leaders, civil servants, and the District Commissioners.¹⁰⁶ The Peace Groups in the districts named above were formalized in 1995 and became integrated as subcommittees of the

¹⁰² Oral interview, Diba Guyo, Digaln, Digaltich, 30/12/2011.

¹⁰³ Oral interview, Jarso Lagole, Kararu, 30/12/2011.

¹⁰⁴ Intermediate Technology Development Group-Eastern Africa (ITDG), *Peace Bulletin*, August , 2003, pp.56-57.

¹⁰⁵ Krätli, S. and J. Swift, 'Understanding and managing pastoral conflict in Kenya: A literature review,' IDS, University of Sussex, UK, 1999; Ibrahim, D. and J. Jenner, 'Wajir community based conflict management,' presented at USAID Conference on Conflict Resolution in the Greater Horn of Africa, June 1996.

¹⁰⁶ Krätli and Swift 1999.

District Development Committee, multi-sectoral government committees at the district level. Its objective was to address water and pasture sharing as well as compensation for deaths during stock theft. It provides a framework for return of stolen livestock and even compensation for victims killed by bandits. The declaration states that for each man killed, 100 head of cattle is to be paid as compensation by the community where the bandits or invaders come from. In the case that a woman is killed, 50 cattle are to be paid while in the case of injuries 15 cattle are paid. In northern Kenya counties, the declaration is still in force although cases of water related conflict still occur.

The conflicts are sometimes so severe that attract national and international out-cry. For example the Turbi massacre of July 2005 shocked the nation. Before dawn on 12 July 2005, about 1,000 heavily armed Borana bandits assisted by their cousins the Oromo from Ethiopia made a series of raids in the Didigalalo-Turbi area some 130 kilometres from Marsabit Town. At least 53 people, including 21 primary school children, were killed. The bandits left a trail of destruction at the trading centre and Turbi boarding primary school and burned to the ground the nearby group of dwellings.¹⁰⁷ It is important to note that, although there was no clear communication of why the bandits attacked Turbi are but as discussed earlier, most of the settlements are near water points.

Area residents narrated how the armed raiders surrounded them and went for the primary school where Class Eight pupils had gone for their morning preps. They recounted how nine pupils from the primary school were sprayed with bullets in cold blood as they huddled together on the dusty floor of the houses where they had sought refuge. An elderly woman residing in one of the two houses was also killed. Others were hacked to death by panga-wielding raiders whose intentions appear to have been aimed at massacring the entire village so as to create space for their access to water points in the area. An infant had his head smashed on a rock. More than 100 people were badly injured and some were rushed to hospital in Marsabit Town by traders.¹⁰⁸

¹⁰⁷ The Daily Nation Reporter, "Turbi Massacre: Government on Spot", *Daily Nation*, 16 July 2005, p. 4.

¹⁰⁸ Njeru, M., "Turbi raiders scaled down village attacks", *Daily Nation*, 20 July, 2005, p. 11

Reacting to the massacre, several civil society organizations, political and religious leaders blamed the state for failure to provide security. They emphasized that violent conflict in Marsabit and neighbouring counties was primarily a function of the state's failure to provide adequate development and security in the region since the country's independence in 1963. All post-independent governments, they said, had neglected the region, subjecting area residents to insecurity and human rights abuses. They emphasized that the state had not done enough to ensure security in the region by sinking more boreholes to provide enough water to the local communities and their livestock. In a statement read by the Chairman of the Kenya Human Rights Commission (KHRC) argued the fact,

“That hundreds of criminals can terrorize a town for hours without the intervention of the country's security forces is a clear indication that the Government has little or no authority in the north-eastern region.¹⁰⁹ The Chairman of the Law Society of Kenya (LSK) and the Secretary-General of National Council of Christian Churches in Kenya (NCCCK) on their side lamented that; “It is quite obvious that the Government has to show more presence in the peripheral areas of this country. The politicians, who thrive on ethnic violence, must cease to do so, and the livestock industry of the people from these areas boosted by offering enough resources needed to maintain the industry”.¹¹⁰

Twenty-eight Catholic bishops expressed shock at the killings and described them as barbaric. In a statement sent through the church's top decision-making organ, the Kenya Episcopal Conference, the clerics said nobody had the right to kill another person for whatever reason.¹¹¹ They urged the state to be more responsive to the needs of area residents and to provide adequate security in the region. The bishops also urged residents of the affected districts to avoid ethnic hatred and conflict, and insisted that local leaders supervise resource use, preach and practice peace as a means of conflict prevention and resolution. The European Union (EU) also expressed concern at the violence and urged the government to restore law and order. In a statement issued by the United Kingdom presidency of the EU on behalf of all member states, it said civilian life, especially women and children, should be

¹⁰⁹ Ibid., *Daily Nation*, 14 July 2005, p. 3.

¹¹⁰ The Daily Nation Reporter, “Turbi Massacre: Government on Spot”, *Daily Nation*, 16 July 2005, p. 4.

¹¹¹ *Ibid.*

protected.¹¹² Members of parliament (MPs) from the region, in particular Marsabit and Moyale Counties, also criticised the state. They argued that the state had the available means to end the killings but had failed in its primary responsibility of maintaining law and order and ensuring that there was peace in the region. One MP accused the provincial administration of siding with some of the clans involved in the conflict.¹¹³

The violent conflict that occurred in Turbi is an indicator of water and other resource scarcity combined with the state's failure to provide security and development in the region and to establish effective early warning systems.¹¹⁴ This lack of institutional capacity or lack of political will to provide development and security, whether personal, community, human or political, in regions that make up most of the forgotten areas in the country has culminated in grave consequences that have led to the loss of innocent lives. The Turbi Massacre was planned and executed with military precision. Most of the casualties were women, children and elderly men.¹¹⁵

The resource problem in Marsabit is sometimes influenced with the political situation in Ethiopia. In Ethiopia, the Oromia community feels marginalised and has always wanted a Oromo state. The trouble is that the Gabra refused to join in the initiative while the Borana agreed and this has created enmity that spills across the border and involves their brothers on the Kenyan side of Marsabit and Moyale.¹¹⁶ The activities of Oromo Liberation Front (OLF), backed by the Oromo-speaking communities the largest 'nationality' in federal Ethiopia are, arguably, a source of conflict in the region. OLF military activities have negatively impacted on the security situation in northern Kenya. OLF sees itself as pursuing the right of self-determination and has proved to be a thorn in the flesh for the Ethiopian government.¹¹⁷

¹¹² Murunga, A., "Address root cause of violence", *Daily Nation*, 16 July, 2005, p. 8

¹¹³ The Daily Nation Reporter, "Turbi Massacre: Government on Spot", *Daily Nation*, 16 July 2005, p. 4.

¹¹⁴ Oral interview, Konso Banichale, Arusi, 30/12/2011.

¹¹⁵ Njeru, M., "Turbi raiders scaled down village attacks", *Daily Nation*, 20 July, 2005, p. 11.

¹¹⁶ Munene, M., "Water the only key to peace says official", *Saturday Nation*, 16 July, 2005, p. 5.

¹¹⁷ *Ibid.*

The June 2005 elections in Ethiopia for instance reportedly sparked off the initial exchange of attacks. Groups opposed to the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) government of Prime Minister Meles Zenawi of Ethiopia accused the Gabra of migrating across the border to vote for the government and launched a raid on Forolle a small settlement on the Kenya-Ethiopia border; this was followed by attacks on Borana settled in the Huri Hills. This sequence of events is consistent with reports from Ethiopia where observers in the country's elections noted that the opposition, which was both surprised and encouraged by the number of votes it garnered, shared responsibility for the post-election riots.¹¹⁸

OLF, however, denied any role in the massacre of innocent Kenyans. It emphasized that exacerbating ethnic conflict between the Borana and Gabra communities of Oromo, living on both sides of the Kenya-Ethiopia border, was a technique of counter-insurgency used by the EPRDF government to discredit OLF. It argued that EPRDF attributed its losses in the June 2005 general election, especially in the South, to the activity of OLF, thus devised this campaign to cross the border and instigate this particular conflict between the two groups in Kenya who competed for water and pasture resource. OLF stressed it has neither strategic nor temporary interest in provoking Kenyans and their government, nor any motive to commit such atrocities on their kin across the border, even though some news media in Kenya had, allegedly, reported that it massacred innocent Kenyans.¹¹⁹

In an apparent contradiction of the claims that the bandits came from Ethiopia, the Kenyan Government spokesperson emphasized that the attacks were the product of historical rivalry over water and pasture which took a form of banditry and revenge missions among communities in the region, and ruled out an external hand in the killings at Turbi. He noted that, "The Government would like to point out that this was a local issue. "It is time we dealt with our problems instead of blaming others", said the spokesman. The spokesperson, nonetheless, noted that diplomatic contacts with

¹¹⁸ Goldsmith, P., "Kenya paying a high price for neglect", *Daily Nation*, 15 July, 2005, p. 9.

¹¹⁹ OLF Statement on the Fratricidal War between the Borana and Gabra Oromos, OLF, 2005, pp. 1-2; http://www.oromoliberationfront.org/Statement_pittinginnocent_people.htm

Ethiopia had been put in place in case the bandits had slipped into Kenya from the neighbouring country.¹²⁰

The problem of boundary dispute and scarcity of resources is arguably, a constant source that led to the violent conflict at Turbi. This is partly due to the state's failure to provide sound environmental and natural resource management policies.¹²¹ This is, however, debatable given the nature of the killings. The question of boundary dispute is intricately intertwined with that of competition for scarce resources, particularly pasture and water, as the warring communities dispute the boundaries that identify the location of water points.¹²² At two separate meetings held at Sololo on 16 July 2005 by the Eastern provincial security committee, and chaired by the PC, the issue of the boundary between Moyale and Marsabit cropped up. The meetings were called to find answers to the genesis of the clashes. A councilor from Moyale requested the provincial administration to clarify on which side of the border Turbi village lay. The civic leader claimed that the water point at Turbi, the primary school and other social amenities had been developed by his constituents but they were pushed out by the previous Kenya African National Union (KANU) government through the influence of a local politician from a neighbouring community.¹²³ The civic leader reiterated that; "We are still bitter for having been thrown out of our area. It is common knowledge that it is us who developed the area and drilled the water hole. We want you, Bwana (Sir) PC, to tell us whether Turbi is in Moyale or in Marsabit".¹²⁴

Turbi and the surrounding area is ideal in terms of livestock pasture and has several water holes. The fight over these water holes has pitted ethnic groups in the area against each other as the competition for scarce resources increases. However, a number of contradictory observations suggest it is also the most convenient scapegoat in the case of the Turbi massacre. The Borana and Gabra are traditional allies who speak the same language, the Gabra are camel people while the Borana raise cattle. Both communities maintain a long standing symbiotic relationship that includes

¹²⁰ The Daily Nation Reporter, *Daily Nation*, 14 July 2005, p. 2.

¹²¹ Intermediate Technology Development Group-Eastern Africa (ITDG). 2003. *Peace Bulletin*, August.

¹²² Oral interview, Konso Banichale, Arusi, 30/12/2011.

¹²³ Njeru, M., "Turbi raiders scaled down village attacks", *Daily Nation*, 20 July, 2005, p. 11

¹²⁴ *Ibid.* p.11.

mutual assistance during episodes of environmental stress.¹²⁵ They have adopted various modes of survival and arrangements of sharing critical resources during such crises. During the long drought of 1999-2001, for example, many Gabra migrated across the border and the very parties involved in the Turbi conflict peacefully co-existed in the Borana plateau. The Borana of Marsabit are actually agro-pastoral farmers and urbanites who do not usually compete for pasture. Marsabit town and its environs are now the main foci of competition between these groups.¹²⁶

It is in this context that the issue of competition over scarce resources, in the case of the violent pastoral conflicts in Marsabit and surrounding areas, becomes debatable. The state's immediate response in providing and ensuring human security needs was minimal. It only provided, alongside civil society organizations and international aid agencies, relief food to the displaced. It did not assist in burying the dead or even to set up an emergency fund to assist the bereaved, displaced, and those whose houses were destroyed by the attackers. Had the state responded immediately and provided adequate security in the area, less people would have died in retaliatory or revenge killings.¹²⁷ The next section discusses the state's response in dealing with the conflicts in Marsabit. The conflicts negatively impacted on the economic well-being, food security, health, personal, community and political security of the area residents in general, thereby endangering their human security.

3.3 Government Response to Marsabit Conflicts

In responding to the conflict in Marsabit County the state admits that it was partly to blame for the violence that has rocked Marsabit and Moyale. In the case of Turbi, the Eastern Provincial Commissioner (PC) admitted that it was true that the state was slow in responding to the request to send in the GSU personnel and that it was very painful.¹²⁸ The state's weakness in handling such crises was also pointed out by one commentator who stated that, "The Government, read police and military, can only respond after an attack. And quite often, the raiders outwit them. More accurately, the security forces allow themselves to be outwitted by the raiders. And once the heat dies

¹²⁵ Oral interview, Godana Gotho, 30/12/2011.

¹²⁶ Haro, G., Doyo, G., and McPeak, J., "Linkages Between Community, Environmental, and Conflict Management: Experiences from Northern Kenya", *World Development*, 33(2), 2005, pp. 285–299.

¹²⁷ Kerrow, B., "This massacre would have been averted", *Daily Nation*, 19 July: 9, 2005.

¹²⁸ *Daily Nation*, 16 July 2005:4.

off, leaders and Government officials will go back to their usual routine, until the next incident occurs. And that is where they are failing us.¹²⁹

The state's security apparatus is outwitted physically and psychologically in terms of target areas, escape routes, and livestock recovery. The state often attempts to adopt a military solution to a developmental or political problem usually resulting in disastrous consequences. The main focus should be on addressing the deep rooted problem of water scarcity and hatred that gives rise to such massacres or adopting effective conflict prevention and resolution mechanisms.¹³⁰ The response to the massacres is taken as a clear indication of the lack of capability that to provide adequate security and in turn a lack of basic infrastructure. For instance, it took over 12 hours for the report of the Turbi Massacre to reach Marsabit Town. Security forces were dispatched to the affected area on the same day. By dusk they had killed ten of the bandits and recovered 5,000 sheep, 60 head of cattle and 10 camels.¹³¹ As the death toll rose, President Mwai Kibaki announced a security operation to track down the bandits and ensure there was peace in the region. Two thousand soldiers, troops from the paramilitary General Service Unit (GSU), and police officers were flown to Marsabit and the neighbouring counties to track down the heavily armed bandits. Military and police helicopters were also deployed to enhance aerial surveillance and assist the ground forces.¹³²

Even with the deployment of the security personnel, local residents were, however, skeptical, emphasizing that the security personnel were unlikely to arrest the bandits and stop the conflicts in Marsabit since most of them always cross over into Ethiopia after attacking. Residents and leaders always accused the police and the army of taking hours to respond to the attack and of initially treating it too casually. In most cases the state sent a very small group of security officers following any attack or massacre, residents point out that such a small force always was no match for the large number of well-armed attackers.¹³³

¹²⁹ Murunga, A., Address root cause of violence. *Saturday Nation*, 16 July, 2005, p. 8.

¹³⁰ *Ibid*

¹³¹ The Daily Nation Reporter, *Daily Nation*, 14 July 2005, pp. 2-4.

¹³² The Daily nation reporter, *Daily Nation*, 15 July 2005, p. 2.

¹³³ Oral interview, Elema Kanchoro, Thambich, Marsabit, 30/12/2011.

The state's failure in the case of violent conflicts in Marsabit County is partly due to the fact that it is accorded a low degree of popular legitimacy by area residents. In the case of Turbi, the state was irresponsible and insensitive in heeding the advice of area leaders and residents. The utter disregard of community leaders' views by the state's security apparatus was responsible for the failure to prevent violence over water resources in the area. For example, area leaders and residents always warned the state that tension between the warring communities was building in the county since January 2005 due to sporadic killings that were arising more than retaliatory attacks. These sporadic conflicts should have sent early warning signals to the government to put in place conflict prevention measures and provide adequate security in the area. Leaders and residents emphasized that this would have averted the violence that occurs frequently.¹³⁴

Signs are always seen. For instance, when anticipating an attack most of the young and middle aged men do not live in the villages. The men would be in the field where they anticipate the battle to be fought.¹³⁵ This makes the situation worse because when the bandits strike the villages, they kill innocent children and women. A good example that the locals anticipate an attack was the case before the Turbi massacre. One MP said he was informed of the imminent attack and went ahead to call a press conference on 22 June 2005 where he accused some Marsabit politicians of using the OLF to kill his people and destroy their property. He pleaded with the local security committee to send in the GSU to deal with the problem of mercenaries from the OLF but the provincial administration disregarded his pleas.¹³⁶ Nineteen days after the press conference, the bandits attacked Turbi, demonstrating a weakness in both the state's intelligence and crime prevention systems. The Parliamentary Committee on Security announced that it would visit Marsabit on a fact-finding mission over the wave of violence in the area. Its Chairman said that it would investigate weaknesses in the intelligence and crime prevention systems before reporting back to Parliament.¹³⁷

¹³⁴ Oral interview, Bonaya Yatani, Marsabit, 31/12/2011.

¹³⁵ Oral interview, Ajoftu Galgalo, 31/12/2011.

¹³⁶ Njeru, M., "Turbi raiders scaled down village attacks", *Daily Nation*, 20 July, 2005, p. 11

¹³⁷ *Ibid.*

Many area leaders and residents in Marsabit, therefore, not only question the legitimacy of the state in providing personal and community security, but also and more importantly, its role in conflict prevention. Though the state acknowledged that it was partly responsible for the violence that occurred, it defends itself against accusations that the conflict in the area was an outcome of its gross negligence in the region. The state frequently shifted the blame on political ethnocentrism, emphasizing that it always headed a series of meetings with local leaders and their communities which were aimed at easing ethnic tensions and accommodation of other communities to embrace the concept of sharing water and pasture resources, prior to any conflict.¹³⁸

The Government of Kenya conducted a series of meetings to defuse tensions among clans in the region. For example in January 2005 several meetings were held where the clans in Marsabit were urged to stop engaging in violence and assist the state instead by restoring order in the region. The state emphasized that the hostilities were fuelled by political leaders in the area. The Assistant Minister in charge of Internal Security Mirugi Kariuki said the state was aware of the hostility particularly among the politicians. He noted: “We had done our part to bring them together but it does not appear to help”.¹³⁹ In a ministerial statement on the Turbi Massacre and related killings, the Minister in charge of Internal Security pointed out that the atrocious acts were a culmination of ethnic and political hostilities and tensions that had been building up in the county in the previous months. He emphasized that the state’s security apparatus had made a series of attempts to reconcile and encourage harmonious co-existence among the hostile communities in the county, and that it was concerned that some leaders had been making irresponsible statements bordering on incitement to violence. The irresponsible statements, he said, had served to heighten tensions in the county. The state appealed to MPs and other local leaders to desist from making inflammatory, reckless, and divisive utterances. The Eastern PC also said politicians from both Borana and Gabra communities were to blame since they were not committed to peace initiatives surrounding sharing of water resources.¹⁴⁰

¹³⁸ Daily Nation Reporter, Daily Nation, July, 15, 2005, p. 4.

¹³⁹ *Ibid.*

¹⁴⁰ Ndegwa, S., *Case Study Five: Peace Building among Northeastern Pastoralist in Kenya: The Wajir Peace and Development Committee*, Washington: Greater Horn of Africa Peace Building Project, Management Systems International, 2001.

Ethno-politics, particularly political ethnocentrism surrounding use of water resources, therefore, also contributes to state failure in the region. The state's inability to create or enhance societal cohesion, and consensus among leaders and residents of various ethnic communities, has also led to its failure in fulfilling its basic functions.¹⁴¹ Ethnic and political intolerance, and hostilities among political leaders from the region, indicate that political ethnocentrism was also a major contributing factor in the frequent conflicts in the area. MPs from the region traded accusations over the perennial violence between the Borana and Gabra communities, claiming that the killings were political. The MPs keep on accusing each other for failing to condemn previous attacks by either the Gabra or the Borana people.¹⁴²

The was always blames of being aware of activities that always led to conflicts and the activities taking place in the county and that it knows who has been working with foreign militias'.¹⁴³ The Parliamentary Committee on Security also acknowledged the hostile political differences among the area MPs when it held meetings with the Marsabit District Security Committee and all MPs from the county. Having placed blame on political ethnocentrism, the state has always been investigating the political dimensions of the conflict and, in the process, summoned some leaders accused of inciting their people. The leaders always voluntarily recorded statements when required but accused the state of political persecution and the police of planning to use them as scapegoats over the killings in the county.¹⁴⁴ While it is acknowledged that pre-existing and on-going political feuds contributed towards the frequent conflicts and related killings, the state should avoid faulting political incitement for its own shortcomings if it is at all serious about providing security to residents in the region.

The legitimacy of the state also becomes questioned when it is unable to create societal cohesion and consensus among warring pastoral communities. It is also the case when it is unable to put in place effective conflict prevention mechanisms. The state's vulnerability to external political forces is also a contributing factor to its failure in the region. In the case of Marsabit and surrounding areas, an external force

¹⁴¹ Haro, G., Doyo, G., and McPeak, J., "Linkages Between Community, Environmental, and Conflict Management: Experiences from Northern Kenya", *World Development*, 33(2), 2005, pp. 285–299.

¹⁴² Kerrow, B., "This massacre would have been averted", *Daily Nation*, 19 July: 9 (2005).

¹⁴³ *Ibid.*

¹⁴⁴ *Ibid.*

that was a contributing factor to the violent conflicts and subsequent loss of lives was the OLF. Area residents, grassroots organizations, local leaders and social commentators attribute the cause of water conflicts to external forces, particularly the OLF, and the general elections held in Ethiopia in June 2005. According to information gathered from oral interviews with the residents, all the raiders came from neighbouring Moyale county and included suspected elements of the OLF. The fundamental objective of the Oromo liberation struggle, which is led by OLF, is to exercise the Oromo's people's inalienable right to national self-determination. The Oromo (Ethiopian), Borana and Gabra are part of the wider Oromia community that straddles across the Kenya-Ethiopia border. The claims of the residents were supported by the local leaders who pointed out that the bandits came from a neighbouring country. In its ministerial statement, the state also acknowledged that some of the bandits are believed to have crossed over to Ethiopia.

3.4 Conclusion

The conflicts in Marsabit county and related killings are largely the result of the state's failure to fulfill its basic functions and responsibilities in the region. The state does not have the capacity or political will to provide meaningful security and development in the region. Ethno-politics and external political forces also contribute to this failure. The nature of this particular violent pastoral conflict indicates that it was more political than traditional or commercial. A large number of people were deliberately killed many of whom were women and children. Many of the attackers were from a specific ethnic group and included members of OLF. Given that the conflicts are always planned and executed with military precision and that the state was always forewarned of the attacks indicates that the timing of the conflict was strategic. The fact that the violent conflict occurs around water points and general elections in Kenya and Ethiopia is a further indication that these conflicts are timing was strategic.

The government must enhance its capacity or political will to provide development and security. To reduce its vulnerability to ethno-politics, the state must create and enhance societal cohesion and consensus among the warring communities especially among their leaders. This can be partly achieved by putting in place effective conflict prevention, management and resolution mechanisms particularly at the grassroots

level. This will create the necessary conditions for the political leaders to engage in mutual cooperation rather than conflict in matters related to development and security. But community participation in such security arrangements with the state is essential. The state must also put in place necessary developmental and security arrangements that will reduce its vulnerability to external political forces. Given the expansive and hostile terrain of Marsabit County, the state should set up and provide adequate communications and transport infrastructure that will enable it to rapidly respond to cross-border insurgencies or raids. Infrastructural development must be accompanied by an increase in the provision of broader development initiatives.

The government must ensure that it guarantees food security of the regions' residents through the implementation of appropriate agro-pastoral farming and range management techniques that involve community participation. This will reduce dependency on food aid. The state must also provide environmental security through the implementation of appropriate or sound natural resource management techniques that also involve community participation. This is likely to reduce the problem of competition over scarce resources such as water. By guaranteeing personal, community, food, health and environmental security, the state will be in effect guaranteeing human security. The general populace will, therefore, be in a position to accord it a higher degree of popular legitimacy. This in turn strengthens the state's capacity to fulfill its basic functions of providing development and security in Marsabit County. More importantly, the state must devise mechanism which can tap on the idea of water as a tool of peace the way the traditional communities used to do as discussed in the chapter that follows.

CHAPTER FOUR

WATER AND THE CULTURES OF PEACE IN MARSABIT COUNTY

4.1 Introduction

Examining the Borana traditional water allocation policies in different parts of Marsabit County, this chapter suggests that water can be used as a platform to induce cooperation over larger political issues, ultimately settling conflicts in the county between different communities. The main premise is that water can and should be used as a catalyst for peace and cooperation rather than conflict. Evidence is provided to support this claim through examples from Marsabit County. These examples including bilateral water treaties and their development and formation process and aftermath are analyzed to draw conclusions about the outcomes as well as the processes by which these outcomes are achieved. It is demonstrated that the perception of a particular treaty as being equitable and fair is mainly shaped by the negotiation process used to reach certain outcomes, rather than being determined mechanistically by the quantitative allocation of water to each party. The processes and perceptions leading to local water conflict resolutions are emphasized as key issues in advancing cooperation and robust implementation of traditional water treaties. The key messages of the chapter are therefore relevant to the geo-political and hydro-political aspects of water resources in the context of bilateral and multilateral conflicts, and the trans-ethnic management of water resources, which contributes insights to political ecology, geo-politics, and environmental policy.

4.2 Water and the Culture of Peace from Ancient World

Water shapes not only the environment but also shapes human lives. Humans have dwelled on earth for long and during major part their lives have lived near water points and used it as a place for communal meeting and sharing. Archaeological findings or written sources concerning human lives have been found near water points. Thus in reconstructing the history of human beings water is central. The modern anthropological studies and recorded mythologies of indigenous people are all centered on water points.¹⁴⁵

¹⁴⁵ Allan, J. Hydro-Peace in the Middle East: Why no Water Wars? A Case Study of the Jordan River Basin, SAIS Review, 22 (2), 2002, pp. 255-272.

The earliest sites of human habitation were where a safe supply of water was found. These were areas around springs and freshwater streams such as small creeks. These were peaceful areas associated with safety not just for humans but also other mammals. Some communities and some mammals even dig water holes for themselves. The Borana people of Kenya for instance dug water wells for their use not only for their members but also for use by their neighbours. The history of digging water holes is not just restricted to human beings, mammals also dug water wells. For example, elephants can dig quite deep pits for water in dry areas and seasons.¹⁴⁶ For both the communities and mammals water points were safe places where peace was observed. These places were also left open for all humans because water was regarded as sacred.

This was the reason why the earliest type of well, the pit well or deep water holes were left without any fortified walls. This is the forerunner of water as an element of peace in human society. To cement such peace, humankind established permanent settlements near water points. This new type of livelihood spread everywhere where there was water and even when the population began to expand, water areas remained areas of peaceful coexistence. It was at water points that man began to practice agriculture. This sedentary agricultural life made it possible for man to construct peaceful villages, cities and eventually states.¹⁴⁷ For all these first settlements water was very essential part of life.

The oldest known written sources on water as a source of peaceful coexistence among human beings date back to about 5000 years ago, whilst archeological records extend roughly to the same era when the first great civilizations of Mesopotamia, Egypt, Indus and China appeared.¹⁴⁸ Petri Juuti discusses various traditions and myths linked with water as a factor in peace. For instance, people have prayed for rain which brings water and food. Once people have water they get enough food which leads to stability and peace. Among most of the African communities and particularly the pastoralists, a well or spring was considered to be a living creature and its spirit was believed to be

¹⁴⁶ Gleick, P. (2010, December 14). Water distribution: Where is water on, above, and in the Earth? Retrieved December 19, 2010, from USGS: <http://ga.water.usgs.gov/edu/waterdistribution.html>.

¹⁴⁷ Gupta, J. and Zaag, P. The Politics of Water Science: On Unresolved Water Problems and Biased Research Agendas, *Global Environmental Politics*, 9 (2), 2009, pp. 14-23.

¹⁴⁸ Petri S. Juuti in his chapter titled, "First innovations of water supply and sanitation.

frightened by noise or whistling. It got irritated if it was mucked up if peace was interfered with.¹⁴⁹

Religious beliefs connected to water served a good purpose for peace making. The traditional religious beliefs among the Borana for instance taught people to respect pure water and to adopt safe customs. As mentioned earlier, the earliest known permanent settlement which in one way symbolized peaceful coexistence were located near springs and other bodies of water. A good example is Jericho from 8000-7000 BC, In Egypt there are traces of wells and in Mesopotamia there are traces of stone rainwater channels from 3000 BC. It is estimated that Ur, one of the first and best known cities of Mesopotamia, had already in 2000 BC rainwater and drainage systems and the water closet was quite common in private houses. From the early Bronze Age city of Mohenjo Daro, located in modern Pakistan, archaeologists have found hundreds of ancient wells and water pipes.¹⁵⁰

In Europe among the Minoan culture, water was considered to be holy therefore anybody around it was to be peaceful. Among the early Greeks, a philosopher/mathematician by the name Thales (624-546 BC) referred to water as the beginning of all. The importance of water for the health of people was a widely held view of ancient Greek and Roman writers. The first major innovation of water supply was probably the well. Without water wells human life and wellbeing face constant risk and nature is under serious stress. If this simple basic facility is in good order, health problems and environmental risks can be avoided. Of course one should keep in mind that the availability of water was a sign of peace. The history of wells is as long as the history of permanent human settlements.¹⁵¹

4.3 Water and Peace in Marsabit County

Water scarcity in Marsabit provided a motive for cooperation since water interests transcended communal boundaries and counties stand to gain from cooperative efforts

¹⁴⁹ Ngahuia Dixon, "Water and Indigenous People in a White Settler Society: The Case of the Maori of New Zealand".

¹⁵⁰ Solomon, S. *Water: the epic struggle for wealth, power, and civilization*, New York, New York: HarperCollins, 2010.

¹⁵¹ Spoth, T. (2009). Of Note Peace over Water?, SAIS Review, 29 (1), 113-114.

addressing water supply issues.¹⁵² Cooperative efforts would be expected so long as communities can gain from those efforts. Should the status quo become upset, communities would reevaluate their positions and pursue courses of action in reaction to the changing situation.¹⁵³ Traditional conflict resolution measures have been attempted to contain the problems of violence and deaths caused by water scarcity and drought which kills large numbers of animals leading to stock theft. The Modogashe Declaration, for example, was passed in 2001 by pastoral communities in Eastern and North Eastern provinces. Given the incompatibility of local systems with official justice institutions, communities in Isiolo, Marsabit, Moyale, Wajir and Garissa had to develop their own ways and means to stop and prevent conflicts.

During years of intense conflict in the region in the early 1990s, a small group of women began to meet with local market women to discuss conflict prevention. They later merged into Peace Groups.¹⁵⁴ These groups first approached elders in conflict communities, gradually expanding their peace-building and mediation efforts to youths, sheiks, business leaders, civil servants, and the District Commissioners.¹⁵⁵ The Peace Groups in the districts named above were formalized in 1995 and became integrated as subcommittees of the District Development Committee, multi-sectoral government committees at the district level.

Committees were established through bottom-up selection processes at the location, division and district level. They consisted of a broad range of members all with the intention to contribute to the maintenance of peace in their area. With some of the committees consisting of representatives from multiple ethnic groups, they have shown considerable success in preventing conflicts and safeguarding property. These peace initiatives have since received significant support from government, local and international NGOs, as well as donor agencies. In Marsabit where the challenges involved conflict parties which originated from different ethnic groups adhering to

¹⁵² Dinar, S. "Scarcity and Cooperation Along International Rivers", *Global Environmental Politics*, 9 (1), 2009, pp. 109-135.

¹⁵³ Viotti, P. and Kauppi, M. *International relations and world politics: Security, economy, identity* (4th ed.). Upper Saddle River, New Jersey: Pearson Prentice Hall, 2009.

¹⁵⁴ Krätli, S. and J. Swift, 'Understanding and managing pastoral conflict in Kenya: A literature review,' IDS, University of Sussex, UK, 1999; Ibrahim, D. and J. Jenner, 'Wajir community based conflict management,' presented at USAID Conference on Conflict Resolution in the Greater Horn of Africa, June 1996.

¹⁵⁵ Krätli and Swift 1999.

different local value systems were overcome through the facilitation of meetings, in which the disputants could carefully negotiate common ground rules that complied with each of their own systems. A good example of this was the Modogashe-Declaration. A meeting was organized between the peace committees, district security committees and other formal and informal stakeholders of the districts of Isiolo, Marsabit, Moyale, Wajir and Garissa.¹⁵⁶ It included the respective provincial commissioners, district commissioners, police officers in charge of a division or district (OCPD), members of parliament, county councils, chiefs and elders.¹⁵⁷ Together they discussed and outlined the modes of a peace agreement, which resulted in a document called the 'Modogashe Declaration' in April 2001.¹⁵⁸

Every community in Kenya had their own laws. The British came and imposed their laws on the people who took them over. The new laws resulted in so many conflicts that were experienced in Marsabit that the new law could not solve. The local communities in North Eastern had to go back and revert back to the old laws. Those are the Modogashe declarations. The people had to look back into their history, when they had no formal centralized government. But they had traditional rules, which they had to follow.¹⁵⁹ The declaration outlined the general challenges faced by communities in the area, such as cattle rustling, disputed use of pasture and water sources, and trafficking of illegal firearms. Its provisions spelt out ground rules in order to tackle these problems. For example, it determined that all unauthorized grazers and water user had to seek prior consent from elders and chiefs if they wished to migrate to a different area; that they were not allowed to enter strange grazing and water areas with their firearms; and that they have to return to their home district at the end of a drought.

This provision responded to the frequent conflicts over pasture and water between the Borana communities in Isiolo and the Somali communities in Garissa and Wajir through re-introduction of the 'traditional' usage system (under which people needed

¹⁵⁶ The district boundaries between Wajir/Garissa and Isiolo also constitute provincial boundaries, between the Northeastern Province (Isiolo) and the Eastern Province (Garissa and Wajir).

¹⁵⁷ Office of the President/National Steering Committee on Peace Building and Conflict Management, 'The Modogashe-Garissa Declarations,' Nairobi, 2005, p. 17-20.

¹⁵⁸ Office of the President/National Steering Committee on Peace Building and Conflict Management, 2005.

¹⁵⁹ Oral interview with peace committee member, ASAL district, May 2013.

to seek permission to migrate to an area claimed by a different group).¹⁶⁰ The provision opposed modern law, which allowed anyone to move freely within the country and which did not recognize land and water claims based on customary usage. In most of the arid lands only the county council and not the local elders and community leaders technically have the power to keep grazers away from land.

The aim of the Modogashe Declaration was stopping the conflict over water usage and forges the idea of cooperation, one provision calls upon peace committees and elders to work with the authorities to assist in managing water points. Complainants were to give correct information about the number of cattle they wanted allowed use the water in other communities control.¹⁶¹ The declaration further determined how to stop the spread of livestock diseases, how to encourage socio-economic development, and acknowledges the important role played by the peace committees, especially in uniting communities. It requested further strengthening of the peace committees through training in peace issues.¹⁶² In May 2005, a review of this declaration was coordinated by the Office of the President, with financial assistance from donors, such as Oxfam, UNDP, and ITDG. The fact that the revised declaration was drafted under the auspices of the Office of the President, and bilateral and multilateral donors was a landmark in making law from bottom-up instead of top-down. The result was the new 'Garissa Declaration', which was signed between the districts of Isiolo, Garissa, Marsabit, Moyale, Samburu, Meru North, Tana River, Mandela, Wajir and Ijara.¹⁶³

The revised version added specifics to some of the provisions of the first declaration. For example, it gave more details in regards to the process to be followed by visiting grazers and water users; they were now requested to have a written agreement when grazing elsewhere and visiting grazers should adhere to traditional water and grazing rules of the local host community.¹⁶⁴

¹⁶⁰ *Ibid.*

¹⁶¹ Office of the President/National Steering Committee on Peace Building and Conflict Management, 2005, p.14.

¹⁶² Dito, p.12-16.

¹⁶³ While the 'Modogashe-Garissa Declarations' are the most famous ones, other declarations were negotiated and signed in other areas, such as the Laikipia Declarations in 1999, Wamba Declarations in 2002, Kolowa Decalarations in 2002, and the Peace Accords in Naivasha of 2006. Office of the President/National Steering Committee on Peace Building and Conflict Management, 2005, p. iii.

¹⁶⁴ Dito, p. 2-3.

In other provisions, attempts were made to better integrate features of the official law. For example, possession of illegal firearms is stated to be against the law of Kenya, and as such no grazer was expected to carry arms. Chiefs were now made responsible for checking on illegal arms possessions in their communities, and in cases of violations, to take appropriate legal action. Another provision called upon increased action by the government to implement the international agreements on disarmament¹⁶⁵ which the Government of Kenya has signed. The role of peace committees in pursuing stolen cattle was more formalized; the penalties for stolen livestock are set down to two instead of five per animal; and alleged murderers now have to be arrested in addition to the payment of compensation. In regards to the peace committees, the new declaration requested the increase of transparent and democratic processes in the selection of the members of the peace committees. These should be elected by the grassroots, without political or top level interference; they were to refrain from instigating or accelerating conflicts; and they were expected to work in partnership with the police force.¹⁶⁶ Interestingly, the declaration provided for all offenses, including ‘modern’ ones not provided for by the local systems, such as the illegal obtaining of an ID card is to be punished by the official laws.

The agreement of local actors from different ethnic communities on common ground rules that responded to the different local systems required careful negotiations. At the outset, societies shared some basic principles, such as the payment of ‘blood money’ for a killing or compensation for stolen livestock. Reaching agreement on other points was challenging. Members of one district peace committees recalled that the norms of the Samburu and Turkana communities differed significantly from those of the Borana or Somali communities. For example, the Samburu representative could not agree to the payment of compensation for the killing of a woman, because, as per the Samburu they don’t kill women’.¹⁶⁷ The Samburu chairman had to return to his community in order to discuss with the other elders whether it was possible for them to agree to such a provision. On the other hand, some women complained about the

¹⁶⁵ The Government of Kenya signed the ‘Nairobi Declaration on the Problem of the Proliferation of Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa’ in March 2000, and the ‘Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa’ in May 2006, among other declarations.

¹⁶⁶ Office of the President/National Steering Committee on Peace Building and Conflict Management, 2005, p2-8.

¹⁶⁷ Oral interview with peace committee member, ASAL district, July 2013

fact that a difference was made in the amount of compensation for the killing of a man (100 camels/cows) versus a woman (50 camels/cows).¹⁶⁸ Women felt this indicated that they were 'worth' less. However, the women were overruled by their male counterparts who referred back to 'traditional' ways of life.¹⁶⁹

Generally, the declarations and the work of the peace committees had a positive impact on solving persisting conflicts in their areas. In Marsabit, for example, the locals agree that the number of water related conflicts since 2001 decreased due to these agreements. Effective peace committees' facilitated dialogue, raised conflict awareness, and coordinated peace initiatives at relatively low cost.¹⁷⁰ They relied on local approaches, worked with locally legitimate authorities and defined, locally accepted processes and punishments. The committees allowed for peaceful interaction with representatives of different groups across ethnic and administrative boundaries. For example, the peace committees send rapid response teams, in case of cattle theft, that pursue the footprints of the cattle.¹⁷¹ If the cattle had already crossed the district border, they called the peace committee of the neighboring district for cooperation. Once the location of the cattle was identified, they requested the return of the cattle. In case the cattle were not returned, the peace committees from both sides got involved in mediation and negotiations over compensation to reimburse the victim group for their loss of livestock, on the basis of the declarations.¹⁷² The committees were perceived as less bureaucratic than governmental institutions. They had basically delivered what the justice sector had not been able to provide. This was water sharering and acceptable resolutions to conflict and the pacifying of communities.

4.4 Deep Wells: A Symbol for Peace among the Borana of Marsabit County

A particular feature on the Marsabit plateau is the permanent supply of water by nine deep well complexes and a number of dispersed springs. The deep wells (tula wells) are perhaps the most fundamental feature that has shaped the Borana society.¹⁷³ The wells constitute a vital source without which keeping cattle in the Borana ranges

¹⁶⁸ *Ibid.*

¹⁶⁹ *Ibid.*

¹⁷⁰ Adan and Pkalya 2006

¹⁷¹ *Ibid.*

¹⁷² *Ibid.*

¹⁷³ Helland, J. "Institutional erosion in the drylands: The case study of the Borana pastoralists" In: Manger, L. and Ahmed, A.G. (Eds.), *Pastoralists and environment*, Addis Ababa, OSSREA, 2000.

would be impossible in the dry season.¹⁷⁴ Tula wells are old, usually much deeper than normal well complexes and require massive excavation with shafts sunk into rock. The tula wells comprise the most reliable source of water, never drying up even in the course of severe droughts.¹⁷⁵ The traditional hand-dug desert wells (often up to 30 metres deep) are vital to the Borana people, especially during the dry season when they provide water for the animals and people; there are no other substantial water sources in the area.

The wells were built with no scientific equipment and they have been operating for the last more than 500 years. The wells appear in clusters, known locally as *tulas*, and there are, in all, important in Marsabit water supply. The deep wells underlie a strong social organisation controlling construction, access, usage and maintenance of the wells.¹⁷⁶ If anyone needs water from a well that does not belong to their clans, they must ask for permission of the owners of the well, who then decide of the water extraction. If water is low, the owner will deny unlimited access but only the owner will allow watering the animals that they have enough for that day.

The wells are dug or cleaned by men. Witnessing men working on the wells is one of the most astonishing things one will encounter among the Borana. Men stand on top of each other, forming a human chain down the well; they toss buckets between each other on a precarious ladder, gathering one of the world's most precious resources water.¹⁷⁷ There is a loud chorus of singing, which keeps the rhythm going. The songs indicate that where there is water, there is peace. The buckets are lowered and raised at a mesmerising pace and the troughs are gradually filled at the mouth of the well. Back at ground level, other groups of animals are gathering, waiting for their turn to come down and drink.¹⁷⁸ Not only the animals are waiting but also women filling buckets to bring them home on donkeys.¹⁷⁹

¹⁷⁴ Oral interview, Diid Athi, Marsabit, 3012/2012.

¹⁷⁵ Coppock, D.L. *The Borana Plateau of Southern Ethiopia: Synthesis of Pastoral Research, Development and Change, 1980-91*, Addis Ababa: International Livestock Center for Africa, 1994.

¹⁷⁶ Helland, 2000.

¹⁷⁷ Oral interview, Diid Athi, Marsabit, 3012/2012.

¹⁷⁸ Oral interview, Diba Guyo, Digaln, Digaltich, 30/12/2011.

¹⁷⁹ Oral interview, Diid Athi, Marsabit, 3012/2012.

Hydrologically, water bodies are interlinked since for instance the amount of water in wells, and rivers depends upon the annual precipitation. Culturally and practically, certain types of these waters are peoples' exclusive or the main source of water depending upon tradition, adaptation and economy, but most often there is a combination of these forms of water at a certain place.¹⁸⁰ If there are only few life-arteries in society, as for instance the dry areas of Marsabit County water will attain a different meaning and role compared to places where there are multiple water-bodies which open up for flexibility in strategies and uses of water for different purposes and livelihoods.¹⁸¹ Thus, in order to understand the role that water plays to bring peace in the Borana society it necessitates analysing the particular waterscapes and the combinations of different types of water within the county. Not all types of water are seen as equally important or relevant in society, and hence it is necessary to conceptualise which and why certain types of water are given importance in daily life but not others.

The water in oases and underground wells as waters from beneath rather than from above attain particular characteristics. The transformative capacities of water which goes from a fluid substance to air by cooking, a process parallel to the hydrological circle in nature, emphasise transgression and fluidity of borders and categories.¹⁸² These ever changing qualities, capacities and forms of water as well as the various types of water enable the substance to be a medium by which it is possible to express and negotiate social relations and problems, and people can communicate the world they live in to themselves and to the outer world.¹⁸³ Hence, the role water plays in defining, maintaining and negotiating identities and cultural values work at many levels, which may either oppose and contradict each other or strengthen and highlight unity and solidarity within a community or between communities.

Among the Borana people, water has deep ontological values. Religions and divinities can both be understood through water symbolism and the cosmological realms can be expressed and defined by the gods, as perceived by humans, through water. In more than one way, water becomes holy as it represents the material element of the spiritual

¹⁸⁰ Oral interview, Elema Kanchoro, Thambich, Marsabit, 30/12/2011.

¹⁸¹ Oral interview, Jarso Lagole, Kararu, 30/12/2011.

¹⁸² Oral interview, Diba Guyo, Digaln, Digaltich, 30/12/2011.

¹⁸³ Oral interview, Elema Kanchoro, Thambich, Marsabit, 30/12/2011.

core of religion among the Borana people. In many religious practices in Marsabit County, from the ancient times to the coming of Islam to the area and to the modern days from primeval waters or links or unites the divine realms to this world.¹⁸⁴ Thus, water or parts of the water in the hydrological circle belongs to the divine realms; either linking gods to humans or being a medium by which humans can reach their gods. The Boranas' perceptions of water in religions influence how, why and which water can be used in what manner, and it impacts their actions and responses to changes in waterscapes.¹⁸⁵ Moreover, water or certain types of bodies of water is often seen as a divine gift, and it is therefore important to understand and document which types of waters are seen as divine gifts and why these particular waters as opposed to other forms of water are attributed with divine or spiritual qualities. Consequently, the different bodies of holy water are variously used in religiously defined settings among the Borana people.

From the Borana community point of view, the reverence of different types of water as holy or the attribution of various degrees of sacredness to water has caused them to maintain peace in water places.¹⁸⁶ The change of some of the Borana people from traditional folklore or tribal religions to Christianity or Islam, or syncretistic variants of the religions, as well as the replacement of Christianity by Islam in some areas or the mutual co-existence, interdependence and influence of different religions and traditions, highlights the structuring role water has played in maintaining peace in the Borana society. Water is a deep and resilient element and fundament in humans' understanding of themselves and their place in cosmos.¹⁸⁷ Although this basis of social and religious core values has always been changing through history, the ontology of water has been and still is a part of the fundament in the Borana society and religion.¹⁸⁸ Importantly, water beliefs and rituals often overlap and transcend dogmatic beliefs and rites in the Borana traditions or religions.¹⁸⁹ Ancient practices or relics of traditional rituals and cosmologies have to a large extent been interwoven into Christianity and Islam by the Borana believers. Thus, syncretic practices and beliefs are often anchored in perceptions of water, and high religions incorporate

¹⁸⁴ Oral interview, Wako Tato, Marsabit, 30/12/2011.

¹⁸⁵ Oral interview, Konso Banichale, Arusi, 30/12/2011.

¹⁸⁶ Oral interview, Diid Athi, Marsabit, 30/12/2012.

¹⁸⁷ Oral interview, Diid Athi, Marsabit, 30/12/2012.

¹⁸⁸ Oral interview, Diid Athi, Marsabit, 30/12/2012.

¹⁸⁹ Oral interview, Konso Banichale, Arusi, 30/12/2011.

former water rituals and beliefs as part of the religions' central beliefs and core values. It is therefore crucial to see water not only as a physical substance but as an actively incorporated agency in the dynamics of change in culture and religion in the Borana people's history since it has had a fundamental role in peoples' beliefs, value systems and identities.¹⁹⁰

Water constitutes identities and creates societies in many different ways, both as symbols but also as a primary agency in culture. Cultural variation among the people of Marsabit is based upon similarities and differences at various levels, which may or may not coincide with ethnicity or political units such as clans. From a water perspective, the various water worlds and types of water in Marsabit transcends or divide communities, enabling other identities because political units may not correspond to the cultural ones.¹⁹¹ These identities have their point of departure in the very physicality of the different forms of water and the biological necessity of the daily water. What types of water are present at a given time create human practices, responses and solutions. By conducting the same practices at a daily, seasonal and annual basis traditions are made, and the collectiveness of practices create values and norms at a household, community, and regional level, which may not represent a clan identity.¹⁹² Clans aim to link the social organisation to a culture which corresponds to the territorial unit. However, today's clans in Marsabit may consist of multiple water cultures or different layers of identities, which may not relate to ethnicity, and these identities may transcend or divide the political and territorial units in the county. These identities are based upon shared values and practices founded in daily activities, modes of livelihood and religious beliefs and rituals that ensure peaceful co-existence.¹⁹³

Traditionally, at a household level collecting water has normally been the task of women, thus creating gender relations but also relations and divisions between different age groups of women among the Borana people.¹⁹⁴ The livestock cycle is dependent upon when the life-giving waters occur, structuring the whole community

¹⁹⁰ Oral interview, Diid Athi, Marsabit, 30/12/2012.

¹⁹¹ Oral interview, Konso Banichale, Arusi, 30/12/2011.

¹⁹² Oral interview, Wako Tato, Marsabit, 30/12/2011.

¹⁹³ Oral interview, Diba Guyo, Digaln, Digaltich, 30/12/2011.

¹⁹⁴ Oral interview, Jarso Lagole, Kararu, 30/12/2011.

by collective practices including the sowing and the harvesting of the small scale crops as well as the type and amount of husbandry possible to have.¹⁹⁵ In traditional societies it was often the leader's responsibility to ensure and provide the sufficient waters for the welfare of the people, and the procurement of the life-giving waters was religious ceremonies whether it was as rain-making or rituals securing the wells. The chieftain or king of the Borana (*Bagatha*) was also most often responsible for the use and distribution of water.¹⁹⁶ The occurrence of the first waters was celebrated with religious festivals as well as other celebrations related to water rituals as part of the Borana religions. All of these practices with implications for life and death created shared experiences, values and norms which constitute to a greater or lesser extent traditions and cultures of peace.¹⁹⁷ Shared social and religious experiences become core value systems of peaceful coexistence when these experiences are structurally institutionalised into the body of collective knowledge through peoples' own identification of the importance of these practices and the values they attach to them.¹⁹⁸ Consequently, water remained a symbol of peace among the Borana of Marsabit.

The legitimisation of social structures and the change of traditions are inevitable connected to power. From the women's queue at the water well early in the morning including how much water they are allowed to fetch to the distribution of what quantity of water among households and clans which they may use for husbandry, the scarcity of water is hierarchically structured where some receive more waters than others. Wealth and power is thus intrinsically connected to power and hierarchies, which in the past culminated with the chieftain or king who, as responsible for procuring the life-giving waters, could be sacrificed for society's prosperity if he was unable to fulfil his water obligations towards his people.¹⁹⁹

From the highest level in a given clan to internal gender relations within a household, water constitutes not only identities but also social organisations and hierarchies. Hence, there have always been struggles and contests regarding these structures at a

¹⁹⁵ Oral interview, Elema Kanchoro, Thambich, Marsabit, 30/12/2011.

¹⁹⁶ Oral interview, Diid Athi, Marsabit, 30/12/2012.

¹⁹⁷ Oral interview, Diba Guyo, Digaln, Digaltich, 30/12/2011.

¹⁹⁸ Oral interview, Jarso Lagole, Kararu, 30/12/2011.

¹⁹⁹ Oral interview, Diid Athi, Marsabit, 30/12/2012.

given time within a specific social or political unity.²⁰⁰ By changing existing water structures in a society it enables hierarchical mobility because legalised access to more water is converted into economic, social and political wealth which are key to peace in any society. From taxation policies at a clan level to redefinitions of rights at local level to exploit more of a community's shared and limited water which enable certain persons more crops or husbandries, including internal hierarchies within such water units with regards to division and organisation of labour and/or exploitation, individuals aspiring for wealth and power may have particular interests in challenging existing water structures.²⁰¹ Water is power and consequently, an agency in the constitution and continuity of societies as well as a driving force for those who would like to change existing structures and traditions with subsequent implications for cultural change.

Through this investigation on the role of water in peace among the Borana, key issues emerge; identity, culture and religion that inform the role of water in peace. Water defines the following aspects of society.²⁰² The economy, subsistence and livelihood, including prehistoric and historic aquatic adaptation, hunter-gatherers, nomads, pastoralists, and agriculturalists, and how constellations of various livelihoods have influenced their perceptions of water and how water has been culturally institutionalised to maintain peace.²⁰³ Identity and gender, with emphasis on how water defines identities and relations at both an individual level, but also how water practices and beliefs structure families and households, including gender constructions and divisions of work between men and women and between different age and gender groups.

Ideology and culture, including how water practices create common experiences from a household, village and clan-level to more supra-political units and how peoples' cultural understandings of themselves correspond, differ or transcend different types of social and political organisations.²⁰⁴ Religion and rites, including rainmaking rituals, prayers and hymns to rivers and other sources and types of water, and how

²⁰⁰ Hussein, J.W. (2004) A cultural representation of women in Oromo society, *African Study Monograph* 25 (3), 103–147.

²⁰¹ Oral interview, Wako Tato, Marsabit, 30/12/2011.

²⁰² Oral interview, Diid Athi, Marsabit, 30/12/2012.

²⁰³ Oral interview, Godana Gotho, 30/12/2011.

²⁰⁴ Oral interview, Konso Banichale, Arusi, 30/12/2011.

water is used as metaphors for understandings of eschatological and cosmological principles of the world, divinities and the life and consequences hereafter.²⁰⁵ Transmission and transformation of tradition, with emphasis on how water through history has been a resilient bearer of tradition, but also how water has been actively used to transcend, bridge or challenge contradicting conceptions and values; i.e. how water has been a formative agency in the constitution of society and tradition by being used to re-define core values and norms people identify themselves with. Power and hierarchies, with emphasis on the formation and organisation of societies from household and village levels to tribes, chiefdoms and clans, and how concepts of water as well as legal claims to water are used to legitimise, challenge and change hierarchies, social organisations and structures.²⁰⁶

These overall time periods, types of societies and organisations, themes and different bodies of water enable societies to live in peace at all levels. Water constitutes personal and collective identities at various levels, and by analysing and comparing water in different sub-regions and ecological setting one may identify cultural variables and identities which have transcended or divided political units and social organisations in the past and continue to do so in the present with subsequent implications for the development of Marsabit County.

4.5 Institutions of Conflict Resolution and Water Management in the Borana Zone of Marsabit

The traditional mechanisms of resolving conflicts and managing water resources in the Borana zone is derived from the Oromo institutions of *gadaa*, *aadaa*, *seera* and *safuu* , and the associated cultural administrative structure.²⁰⁷ Gadaa is a system of social organization based on age-grade classes of the male population that succeed each other every 8 years in assuming economic, political, military and social responsibilities. A complete gadaa cycle consists of five or six age-grades, excluding those stages following *luba*. The *gadaa* system organizes Oromo social life around a series of generation grades that assign obligations as well as rights to all the males in

²⁰⁵ Oral interview, Jarso Lagole, Kararu, 30/12/2011.

²⁰⁶ Oral interview with peace committee member, ASAL district, July 2013.

²⁰⁷ Dejene, A. (2004) Fuzzy access rights in pastoral economies: case studies from Ethiopia, The Tenth Biennial Conference of the International Association for the Study of Common Property, URL, http://www.iascp2004.org.mx/downloads/paper_109a.pdf (accessed 20 October 2004).

the society.²⁰⁸ Each man born to or adopted by Oromo parents is automatically placed for life into a ready-made pattern of positions and moved through it, performing various services for the public and also receiving certain privileges.²⁰⁹ Each man contributes his labour power in different capacities to the society as a whole.

The grades are also periods of initiation and training as well as periods of work and performance. The roles and rules attached to the age-grade system are the most important elements that regulate the *gadaa* system. Every Borana man of specific age-grade is expected to perform a certain function according to specified rules and regulations. When a Borana man passes from one stage to the next, his duties and way of life in society also change.²¹⁰ For instance, during the grades of *qondaala*, *kuusaa* and *raabaa doorii*, individuals learn war tactics, Borana history, politics, ritual, law and administration over a period of 24 years. When they enter the *gadaa* class or *luba* at the age of about 40 years, they have already acquired all the necessary knowledge to handle the responsibility of administering the society and the celebration of rituals. This process ends with the partial retirement of the whole group of elders to an advisory and judicial capacity. Following *luba*, men automatically retire from *gadaa* and move into an advisory role known as *yuba*. By then they receive a great deal of respect, as wise, experienced authorities and repositories of law, but their decisions are no longer final, as they had previously been.²¹¹ They turn the bulk of their attention to private family businesses or religious activities while their sons enter *gadaa*, the public service.

Luba is the ruling grade. Its members hold all political authority, elect representatives to attend to represent them in meetings discussing issues that affect them. They also make laws to administer the society in a wide variety of capacities. Nine *gadaa* officials are elected. The *gadaa* leaders are elected on the basis of wisdom, bravery,

²⁰⁸ Ahrens, J.D. and Farah, A.Y. Borana and Liban Affected by Drought: Situation Report on the Drought Affected Areas of Oromiya and Somali Regions, Ethiopia, United Nations Development Programme, Emergencies Unit for Ethiopia, Addis Ababa, Ethiopia, 1996.

²⁰⁹ Bassi, M. (2003) Enhancing equity in the relationship between projected areas and local communities in the context of global change: Horn of Africa and Kenya, <http://www.iucn.org/themes/ceesp/Publications/TILCEPA/CCA-MBassi.pdf> (accessed 28 October 2004).

²¹⁰ Conroy, C., Rai, A., Singh, N. and Chan, M.K. (1998) Conflicts affecting participatory forest management: some experiences from Orissa. Revised version of a paper presented at the Workshop on Participatory Natural Resource Management in Developing Countries, Oxford, UK, 6–7 April 1998.

²¹¹ Oral interview with peace committee member, ASAL district, July 2013.

health and physical fitness.²¹² Slight differences are observed among the Oromo communities across Oromia in the way they practice *gadaa*. The Borana have kept the system more intact than the Oromos in the other areas because of their relative isolation from external influences. In the case of the Boran, the entire *gadaa* presidium, consisting of nine members, is called *Saglan Yaa'ii* Boran (nine of the Boran assembly).²¹³ The *abbaa gadaa* is the legitimate leader of the Boran. If the *gadaa* officials fail to carry out their duties, the council of elders can replace them by another group from among the same *gadaa* class, which proves how accountability is entrenched in the governance system. One major economic function of *gadaa* is the distribution of resources, by establishing who had to help whom, when and why, by settling conflicts between families over goods and by making laws. It is the system that governs the Boran's use of natural resources and enables the various groups to coordinate their use of important resources like water.²¹⁴ According to *gadaa*, those people who have entered the *luba* grade (individuals in the expected age range of 40–48) are considered to be elders. Therefore, the *lubas* (elders) settle disputes among groups and individuals and apply the laws dealing with the distribution of resources, criminal fines and punishment and protection of property of the Borana.

Thus the elders in the community form a dominant component of the customary mechanisms of conflict management and natural resources management.²¹⁵ The authority held by the elders is derived from their position in the *gadaa* system. While the rules and regulations laid down by the *gadaa* tradition must be respected by all councils of elders, any problem regarding resources use which could not be solved by these elders would be handled by the higher *gadaa* leaders. The *abbaa gadaa* play a very important role in natural resources conflict resolution.²¹⁶ The *abbaa gadaa* is seen as the figurehead of the whole of Borana, and is often described as the president. As well as performing rituals, matters are referred to him and his council when a

²¹² Constantinos, B.T. (1999) Alternative natural resources management systems: processual and strategic dimensions. In: Okoth Ogendo, H.W.O. and Tumushabe, G.W. (eds) *Governing the Environment: Political Change and Natural Resources Management in Eastern and Southern Africa*, African Centre for Technology Studies (ACTS), Nairobi.

²¹³ Legesse, A., *Oromo Democracy: an Indigenous African Political System*, The Red Sea Press, Inc., Asmara, Eritrea, 2000.

²¹⁴ *Ibid.*

²¹⁵ Legesse, A. *Gadaa: Three Approaches to the Study of African Society*, Free Press, New York, 1973.

²¹⁶ Desalegn, Ch.E., Babel, M.S., Das Gupta, A., Seleshi, B.A. and Merrey, D. (2004) Farmers' perception about water management under drought conditions in the Awash River Basin, Ethiopia, *International Journal of Water Resources Development* 22 (4), 589–602.

decision cannot be reached at a lower level. When conflict breaks out between *ollaas* or *araddaas*, or *maddaas*, 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.²¹⁷ As the *abbaa gadaa* is responsible for dealing with matters of concern to the Borana, 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.

The foundation of the *gadaa* system is rooted in the informal or customary Oromo institutions of *aadaa* (custom or tradition), *seera* (Boran laws), *safuu* (or the Borana concept of Ethics) and *heera* (justice). These institutions form indigenous systems of knowledge and include the rules and regulations that determine access to natural resources. They define the access and the rights that a group has to natural resources.²¹⁸ In the Borana zone, individuals, groups and organizations have different statuses regarding access to resource and use rights, and these institutions define their differentiated access and use. These indigenous institutions are rehearsed with both regularity and rigour and supported by networks of kin, and institutionalized in meetings and rituals. Natural resource access is governed by the combination of these different institutions, which are also conflict-resolution institutions and are uniquely placed to assist in tackling the interlinked problems of the environment, welfare, and conflict. The *aadaa* and *seera* are rehearsed at a meeting that is held every 8 years in Borana.²¹⁹

Aadaa sanctions the different strategies that the Boran institutions at all levels adopt and restrict access to those parts of the pasture within their jurisdiction. However, it is worth noting that *gadaa* is a male-oriented, socio-political and cultural system and excludes the Borana women from its political and military structures. Men are in control of military and political activities. Only men can engage in warfare. Only men take part in the elections of leaders of camps or of age-sets and *gadaa* classes.²²⁰ Men lead and participate in ritual activities. However, ritual is not an exclusively masculine

²¹⁷ *Ibid.*

²¹⁸ Coppock, L. (2001) Risk Mapping for Northern Kenya and Southern Ethiopia, Global Livestock Collaborative Research Support Program, University of California, Davis, California.

²¹⁹ *Ibid.*

²²⁰ Flintan, F. and Imeru, T. (2002) Spilling blood over water? The case of Ethiopia. In: Lind, J. and Sturman, K.

domain: there are several rituals performed by women. In these and a few other instances women do take an important part.

Role of women in Borana community

Women play a great role in the Borana tribe; they build houses, usually traditional round grass huts, do tea ceremonies during the opening ceremony of the new houses. They also weave portable grass huts called the *dasse*. They are made from handy and temporary materials. Even though the huts are temporary, the style, customs and civilization has existed for centuries. Women's other responsibility is to relocate the villages from place to place by camel or sometimes donkey. However on Water related matters, it is difficult in that the Borana culture is a clan based one with age-old ways of doing things in which certain category of men's voices dominate public decision-making. Meanwhile, in the traditional division of labour, women are in charge of the domestic water needs of the household (which includes some category of livestock) and men are generally responsible for the water needs of the majority of the livestock. Although these same patterns apply in agricultural settings with livestock and irrigation needs being generally the male concern, in the Borana case women are even less involved in the public decision making over water needs and yet their responsibility and needs are to some extent different from the priorities of many men. Women can be engaged in these discussions; it just needs time and energy to engage them.

Politically, Women mostly do not participate in political activities along side with the men, but instead they participate in political activities indirectly through their song called *karile*. Here in their song they use to criticize the poor decisions made by men. By doing this they can force them to change their less honourable decisions.

Women are actively excluded from age-sets. They are therefore heavily dependent on men for most political-ritual services and for all activities connected with the defence of Boran camps, wells, herds, and shrines. However, there are parallel female-oriented institutions to gadaa known as *ateetee* and *siiqqee* institutions.²²¹ Borana women used to practice *ateetee* as a way of strengthening their solidarity and as a tool to counter

²²¹ Dejene, A. and Abdurahman, A. (2002) The root causes of conflict among the southern pastoral communities of Ethiopia: a case study of Borana and Degodia. Paper presented at the Second Annual Workshop on 'Conflict in the Horn: Prevention and Resolution', Addis Ababa, Ethiopia.

atrocities staged against them by men. Similarly, as a check and balance mechanism, *siqqee* was institutionalized and women formed parallel organizations of their own that actively excluded men. Another important informal institution with relevance to conflict resolution is the institution of *araara* (literal meaning, reconciliation) and *jaarsummaa* (literal meaning, the process of reconciliation between conflicting individuals or groups by a group of *Jaarsaas*).²²²

In addition to the rules, laws, norms, customs and ethical values embedded in the *gadaa* system there are integrated sets of cultural administrative structures that regulate access to water, land and forests. Management of water, as a common property, in Borana remains relatively intact to date.²²³ Despite the collapse of most of the indigenous institutions of Borana people, those concerned with the administration of water have sustained their importance.²²⁴ It is important to note that access to water and grazing land is fundamental to the survival of Borana pastoralists because of the inherent nature of the ecological setting of the Borana zone. Thus, the water and land management functions of the *gadaa* system remained relatively robust.²²⁵

The Barana managed their water as follows: Wet season: after rainfall, open water sources are used and wells are closed. Dry season: herds are successively shifted to more distant ponds and traditional wells are re-opened to preserve water near the home stead. Progressing dry season (water scarcity): the drinking frequency of cattle is gradually and subsequently reduced to 1 day (*dhabsuu*), 2 days (*limaalima*) and finally 3 days (*sadeen*). The coordination of access to water is also linked with tasks of cleaning, maintenance and rehabilitation. For example, cattle are restricted from entering the water sources by fencing off the sources and making them drink water

²²² Dejene, A. (2004) Fuzzy access rights in pastoral economies: case studies from Ethiopia, The Tenth Biennial Conference of the International Association for the Study of Common Property, URL , http://www.iascp2004.org.mx/downloads/paper_109a.pdf (accessed 20 October 2004).

²²³ Grimble, R. and Wellard, K. Stakeholder methodologies in natural resource management: a review of principles, contexts, experience and opportunities, *Agricultural Systems* 55, 1997, pp. 173–193.

²²⁴ Gumii Bilisummaa Oromiyaa (2000) Understanding the *Gadaa* System, URL address, <http://www.gumii.org/gada/understd.html> (accessed 1 November 2004).

²²⁵ Homann, S., Dalle, G. and Rischkowsky, B. (2004) Potentials and Constraints of Indigenous Knowledge for Sustainable Range and Water Development in Pastoral Land Use Systems of Africa: a Case Study in the Borana Lowlands of Southern Ethiopia, GTZ, Tropical Ecology Support Programme (TOEB), Germany.

hauled into troughs made from clay. Traditionally, the Borana clearly define the rights to water for each of the various sources (wells, rivers and ponds).²²⁶

The following are the most important sources of water (madda) that are highly regulated. These are hand-dug shallow ponds (haroo), a pond is the property of an individual or his direct descendants who initially excavated it and the person is called abbaa konfi. Rights to use the pond are obtained by providing labour for the maintenance of the pond, although the property of the abbaa konfi, the pond is administered by the local elders. Wells (eelaa), the wells are highly regulated in Borana. They are divided into two types, adadi (shallow wells) and tulla (deep wells). The tullas are famous because they can reach a depth of 30 m and water is drawn by a row of people standing one above the other and passing up containers of water. Natural ponds containing water throughout the year are known as bookee, Rivers, Temporary ponds and Rainwater harvesting. The opportunistic nature of access to these water sources implies that the right of access to the water depends, above all, on the reliability of the water supply (as they are either temporary or occasional sources) and landownership on the shoreline of the sources (the riparian rights doctrine).

The access to these sources is characterized mainly by poor institutional development and little regulation. Occasional water sources (surface water from rain) have the most unreliable supply, and no restrictions whatsoever are imposed in accessing these. By contrast, hand-dug ponds and wells are regulated and they are the most important sources of water as they are the most reliable and labour intensive types. The wells are managed by a council of the clan group, which includes a retired hayyuu (special counsellors or individuals who hold ritual authority to judge).²²⁷

The abbaa konfi is the trustee of each well, the abbaa herregaa is the coordinator of water use and maintenance and other members. Any violation of the customary rules of water use and maintenance is referred to and discussed by the kora eelaa in the presence of the culprit. The discussion entails a complex web of entitlements that enable an individual to gain access to water from any particular well and the turn that

²²⁶ Helland, J. Development interventions and pastoral dynamics in Southern Ethiopia, In: Hogg, R. (ed.) Pastoralists, Ethnicity and the State in Ethiopia, Haan Publishing, London, 1997.

²²⁷ *Ibid.*

person is given in the rota for the watering of animals. It depends on the membership of the clan of the abbaa konfi and on the contribution to the labour of constructing the wells.²²⁸ Animals are given water according to a strict rotation: the abbaa konfi, the abbaa here gaa and then other clan members according to their seniority in the clan. In addition to these entitlements, the Boran aadaa and seera forbid the denying of anyone access to water or the request for its payment. In general, the ideology and social relations of Boran society are based on nagaa Boran (the peace of the Boran). The Borana define peace not as the absence of war but as a proper relationship within the localities and with God, Waaqa. The relationship between different clans, villages and households or any other social group is based on cooperation and mutual respect.²²⁹ Where a dispute arises, it is soon resolved through mediation by a council of elders.

4.6 Conclusion

This chapter has discussed the rights-based water management among the Borana people of Marsabit County. The chapter has shown that water is a physical resource, and an economic resource, and a social resource far more often than any one of these alone. Managing access to water necessarily requires management across multiple dimensions expressly recognizing the natures of the natural resource. When viewed from the broader vantage of natural resource management, the complex stability of the Borana water system, consciously managed as a physical resource (the aqueduct and distribution system within the community, a social resource free water in the communal gathering places of the lacus, an economic resource charging the vectigal to underwrite maintenance costs, and a political resource as a justification of elders rule. Considering how the different natures of water were deliberately managed reveals much more on how water was at the centre of peace. The primary purpose of this chapter was to show how water was used to promote peace in Marsabit County the use of transboundary watercourses by addressing conflicts and fostering co-operation among states and stakeholders. The ultimate goal was to show how water facilitated integrated management of shared water resources for the benefit of all parties.

²²⁸ Desalegn, Ch.E., Babel, M.S., Das Gupta, A., Seleshi, B.A. and Merrey, D. (2004) Farmers' perception about water management under drought conditions in the Awash River Basin, Ethiopia, *International Journal of Water Resources Development* 22 (4), 589–602.

²²⁹ Hussein, J.W. (2004) A cultural representation of women in Oromo society, *African Study Monograph* 25 (3), 103–147.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

This study acknowledged that there have always been shortages of water in Marsabit County at some times. Whenever this happened there was competition for water and sometimes conflict between communities that live in the county. But the study has shown that the communities in Marsabit always learned to adapt or cope, sometimes by moving neighbouring communities to share the water. At first people followed the water, settling near rivers, lakes, and springs, and moving to others if these dried up because of climate variability. As human survival evolved, the communities in Marsabit constructed water wells which acted as water reservoirs. However in the past years the population in Marsabit has mushroomed and large settlements have developed. Water consumption has risen to feed the people and their livestock. Locally and regionally, competition for water increased in Marsabit. To this must be added the threats to regional and global ecosystems caused by anthropogenic and natural climate change.

The study acknowledges that conflicts over water in Marsabit County consist of three key spheres which I categorize as hydrosphere, economic, and political. The study has shown that there is a strong potential conflict between the ecosystem's needs for water and human needs. Even within the context of human needs, conflicts over water are often affected by problems in the economic and political spheres as much as those generated within the water sphere itself. For instance, in Marsabit, there is always politics surrounding different community access to water. Similarly, problems in the water sphere led to conflicts or disputes in the other two spheres. Inequities are increasing between community access to water, particularly between the dominant communities in Marsabit namely the Borana and the Gabra. This has led to a situation whereby water wars were inevitable in the county. However, this study countered the claims that water always caused conflict in Marsabit. It has shown how the communities cooperate in sharing water and therefore water becoming a basis for building peace.

The study has shown that water wells can be a good base for enhancing the awareness and participation of local communities and the public in the integrated management of water resources, and conflict resolution through more effective dialogue between all

stakeholders. The water can be used to achieve integrated, equitable, and sustainable development in the county. The study has shown that water wells have been used to continually reconcile the competing interests of all water users in Marsabit County. The management of water-related conflicts, confrontations, competitions, and cooperation is thus a part of water resources management in its broadest sense utilized by the communities in the county. This may range from overseeing peaceful cooperation between users of a resource to facilitating negotiation of disputes between different communities.

The study has clearly outlined the idea of a causal link between water scarcity, war and peace. Water is necessary to produce food which is important in any society. This research has how various social actors in Marsabit County have deployed strategies over varying spatial scales when competing or cooperating in accessing, using, or allocating water. They also deployed strategies over widely varying scales when competing to spell out the rules governing each of these activities. The study has shown how communities in Marsabit resorted to oral customary law to regulate their access and use of a neighboring wells, spring or river for watering their animals and domestic use. This is often the case in Marsabit County where the new rules and regulations, especially those introduced by the central government or provincial administration, clash with customary law. Very similar situations are also often found in other pastoral communities in the neighbouring counties.

At the other end of the day, elders may consider the entire water resource lying in the county when negotiating a treaty with each other. The research has shown that any understanding of Marsabit conflict concerning water and any successful conflict resolution proposals need to rely on multi-scalar analysis of the competitions and conflicts concerning water. Such an analysis explores the competition and conflict occurring over several scales. It explores the interactions between those who are active over different spatial and social scalar levels. The sum of these contradictory interests constitutes what is often reduced to water conflict. The advantage of local mechanism of managing water conflict implies that consensus is sought, since all parties participated in the development of the negotiations. The use of such approach will permit stakeholders to confront their normative view of what the world ought to

look like, with the physical and socioeconomic realities to which they must adapt at all scales.

The study has shown that water shortages are nothing new, and throughout the history of the communities in Marsabit County various solutions have been implemented to overcome water scarcities and enhance water security. Such solutions were always short-lived a temporary relief on an historical time scale because the social and cultural consequences of each solution led to a gradual, cumulative increase in the demand for water. From the Marsabit example outlined in this study, history suggests that while technology may provide a partial solution, only a return to fundamental human values of justice and equity will provide a sustainable solution to the county's accelerating water crisis.

Human societies living in the county have throughout history found new means to secure the availability of water where they settled. They have devised indigenous methods to harvest, transport, and store water, spring water and groundwater. They have also continued to search for new sources of water. Water and social issues are never divorced from beliefs concerning the world, the social order, and ethics. This leads to the conclusion that further water scarcities cannot be overcome simply by new technologies. All technological innovations aimed at relieving water scarcity are embedded in a social and ideological matrix. All such innovations also have an impact on society and its ideology. To gain a deeper understanding of the complex relationship between water, people, culture and peace, the study endeavoured to develop an analytical perspective on the relationship between historical cultural developments and water management from the dawn of prehistory to the present Marsabit.

Although it is often said that water will be the source of the next war in the world and that indeed, that water conflicts all around the globe will arise in the next century. In the Marsabit County the negotiations, water has been a major issue as to the return of peace. When the communities living in Marsabit negotiate, water is one of the final-status issues and a potential obstacle to a lasting peace agreement or achievement of the same. The study has shown that around Marsabit County, water holds a critical importance in people's daily lives for things like drinking, cleaning and cooking as

well as in economic development and geopolitics particularly because the communities are pastoralists. Water in the county connects to land and property rights and is fundamental for pastoralism and food supply. In the larger Marsabit County water is scarce, particularly in the face of droughts and declining freshwater quality and availability. Communities throughout the region have had to adapt to and deal with this persistent lack of water, which in many cases has been detrimental to county stability, economic growth and development, and environmental sustainability.

In Marsabit, and her neighbours, water is intrinsically linked to the historical, political and conflict and peace in the region. The conflicts in Marsabit are complex and wide-ranging, involving many different parties and hinging on multiple key issues. At the core, it is about communities each with claims to land and water and strong beliefs on how to share or not to share it. The struggle, which dates back to the early settlement, has been the focus of much diplomacy and conflict between the communities living in the county, with many agreements, treaties and tragedies. It was in this context that I visited the region, meeting with many local elders from different people. These experiences taught me a great deal about the politics and mindsets of people in the region. The elders of Marsabit County have worn many different hats in the region, from mediator and critic to supporter and aggressor. Of these, it is no secret that they have played a large and impactful role. Today, many see the elders' efforts as the only legitimate mediator for peace talks as they were witnessed in action, during peace negotiations between communities in Marsabit.

In summary my study has shown that water resources in Marsabit County are put under unprecedented pressure. This affects populations of entire regions from the economic and social viewpoint. Population increase, migration, urbanisation, climate change and, in some cases, the increase in the standard of living and the costs of conflicts have had a severe impact on these resources. Moreover, water reserves in Marsabit County rarely correspond to the political frontiers drawn by human beings in the area. The management of these resources must therefore also be a cross-communal border activity. With this in mind, the elders in Marsabit have launched peace initiatives to ensure water sharing. The research has shown that, this initiative aims to transform the water crisis in the Marsabit County into an opportunity for the countries concerned. They will have to unite and to strengthen their peaceful links

through the concerted and sustainable management of water resources. As a result, this issue is raised to the level of high local leadership politics rather than being confined to clan level water management.

But for this blue peace to become a lasting reality, all aspects of water management have to be dealt with in a cross-clan. The communities in Marsabit established local institutions to develop a shared vision and instruments to realise peace in water usage. Water has always been a very important factor in the Marsabit conflict, and as the dynamic of the conflict developed, water politics changed accordingly. The issue of water has been a problem on its own due to the increasing desertification of the area. Given the importance of pastoralism for community's economies, whoever had access to water would obtain access to land once they managed to cultivate it. The Borana people used this as a strategy for land appropriation in the county. Water politics transformed to attain other Borana national goals. Water politics have been used both as a strategy to assure Borana security, but also as a form of terrorism against the other communities in the county. However, equally important for the overall conflict are other factors such as the inability of the existing peace accords to reach a viable settlement on the issues of water usage.

The historical examination of the conflict has been argued by some as causing a negative effect when trying to obtain an objective understanding of what the main factors of the quarrel are because the versions of all the parties appear to be mutually exclusive and often seem irreconcilable. Water politics have been used in various forms during the Marsabit conflict. The basic definition of water politics presents them as policies that are made based on the availability of water and the best strategies to grant access to it.

The Marsabit experiences demonstrate that only too often public participation and transparency are lacking and methods of settling disputes are underdeveloped. Not least with regard to local conflicts regarding the use and protection of water sources, as well as the repercussions on local communities of decisions on water use patterns made without corporations and due participation of the people affected. If the latter are excluded, deliberately or not, from policy processes they may easily turn to strategies of confrontation in order to pursue their interests and defend what they

perceive as their traditional rights. This could easily lead to intra-clan conflicts that could also have an impact on inter-community relations. The reverse also holds true. Inter-community agreements on water courses can impact at the local level, which in turn could lead to intra-community conflicts.

All community agreements when implemented domestically benefit some places and people more than others, and their costs are unequally distributed in geographical and social terms. This means that the problems inherent in the linkages between the closely interwoven different levels from the local to the global of water use, water management and hydro-politics must be taken into account. What is good on the inter-community level might be counter-productive on the domestic level and vice versa. The potential linkages and relationships between cooperation and conflict at the local level, and conflict and cooperation at the sub-national level need to be fully explored. In addition and perhaps more importantly, processes which provide for the inclusion of all stakeholders at all levels in the hydro-political processes should be developed. Participation can be token or substantial. Peace efforts strongly advocate participation of all communities affected, and promise to provide for participation of stakeholders.

How to achieve usage of water for peace particularly to involve the poor in the process of water management in Marsabit County remained an under-researched question. While the importance of the issue is widely acknowledged, practical solutions are difficult to find. What works in the local context customary mechanisms of water management and respective conflict resolution cannot simply be underestimated. This has been observed with regard to Marsabit where the physical scale of water means that local level institutions dealing with local issues find it easy to engage with the issues facing others in terms of water usage. For external actors who want to assist in the formation of good water governance and water related conflicts, there are two basic prerequisites. First, taking heed of the local cultural-societal context of water and access to it may help to achieve peace. Second, there is no apolitical neutral water management, as water governance is always subject to political contestation. Thus, external actors who wish to support conflict prevention and mitigation in relation to water governance at the local levels are recommended to encourage the political aspects of water governance being explicitly addressed.

External actors should be aware of, understand and be prepared to learn about, the pluralistic character of institutions and actors that are involved in water management issues at a community level. In particular, they need to understand that local governance matters, and that this local governance often does not function along the same lines as at the government or state environments, which usually focuses on structures of the state, the formal economy and civil society. It is necessary to learn about local community-based water arrangements and engage with informal institutions, traditional authorities and customary ways.

Recommendations

While trans-community water governance has advanced, a huge lacuna at the local level persists.

The main priorities should be to support the continuation and extension of internal water resource management, particularly down to the local level. Stakeholder participation, while not a panacea, is a necessary aspect of conflict prevention in this regard. The ultimate aim of all these endeavours to address water related conflicts directly or indirectly should be the development of new ways of conflict-sensitive thinking about water governance based on community participation and equality of access to fresh water, particularly given that those who are marginalised in society are generally marginalised in water governance.

However, ensuring the participation of the marginalised and poor and taking into account their needs is going to be problematic when powerful interests are at stake. But in this research I would argue, is essential to ensure that the weak do not have to resort to violence to be heard. Future conflicts over water are less likely to happen at the inter-state level and more likely to be at the local level, driven by local pressures and linked to lack of access or unequal access, and poverty. The structural violence that expresses itself in these figures is a much more pressing problem. For many Africans, water is a matter of life and death every day, even in the absence of violent conflict.

The study proposes that there should be an increased collaboration and networking between the statutory and customary institutions of governance. In particular, the state should recognize and support the customary courts and enforce their rulings. The

customary laws are often more important than statutory laws and are relied upon in deciding access rights to natural resources and in resolving conflicts. Neglect of these norms and laws may have negative consequences for development policy of the nation in general and for the local community who rely on them in particular. A 'systematic combination' of customary and statutory institutions in the development and management of natural resources may facilitate cross-cultural understanding, thereby improving the socio-economic development of the country. However, enforcing the statutory rules on the local community without due consideration for their indigenous norms and values should be avoided on the side of the state. Access of what and by whom to the local communities should be established through customary institutions.

In the Boran tradition, natural resources management and conflict resolution are combined; and as a result of the great respect the customary institution receives from the local Communities, it is the best institution to deal with the operation and management aspects of Natural resources governance. Therefore, full authority should be given to the indigenous Institutions in making decisions regarding access rights to scarce natural resources. The involvement of government bodies in decision-making processes about natural resources (such as overruling the indigenous institution's decision) should be avoided. In general, the whole effort of the government should be directed at natural resources development, leaving the management and operation aspects to the traditional institution. Yet, the local community should be given a say in the development projects starting right from the planning stage. Furthermore, the role of local customary institutions in water resources management and conflict resolution should be spelled out clearly in the water resources policy of the county.

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APPENDIX



Source: Picture taken by Jillo Abarufa on 31/12/2011

Picture 1. Elders from Matari Clan holding a meeting to discuss how to approach other clan to request for water



Source: Picture taken by Jillo Abarufa on 31/12/2011

Picture 2. Members of the clan listening to the proceedings during the meeting only Men are allowed to attend



Source: Picture taken by Guyo Golicha on 31/12/2011

Picture 3. The clan members deliberating on the way forward in forming a panel of respected elders to approach other clans



Source: Picture taken by Jillo Abarufa on 31/12/2011

Picture 4. Aerial view of Some of the singing wells during the times when they are not in use.



Source: Picture taken by Guyo Golicha on 31/12/2011

Picture 5. pathway down to the wells its usually a rocky and dusty path since they are used by animals

As they go down to the water point.



Source: Picture taken by Guyo Golicha on 31/12/2011

Picture 6. research student Jillo Abarufa taking notes at the water wells in Marsabit county



Source: Picture taken by Jillo Abarufa on 31/12/2011

Picture 7. Water wells of sagante in marsabit county



Source: Picture taken by Jillo Abarufa on 31/12/2011

Picture 8. One of the wells with water at marsabit county



Source: Picture taken by Jillo Abarufa on 31/12/2011

Picture 9. Children fetching water for domestic use from one of the wells at Sagante in marsabit county



Source: Picture taken by Guyo Golicha on 31/12/2011

Picture 10. Caretakers of the wells with research student in marsabit



Source: Picture taken by Guyo Golicha on 31/12/2011

Picture 11.the caretakers of the wells represent different clans here we have three clans rrepresented by elders Matari,digalu and dambithu.



Source: Picture taken by Guyo Golicha on 31/12/2011

Picture 12.Mzee Diid Athi one of the elders in charge of the Matari Clan wells giving details of the wells