

**A Critical Analysis of the Role of Mutual Resource-Sharing in Conflict Management: A Case Study of Kenya-Ethiopia Border (2000-2009).**

**By**

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**Project Presented in Partial Fulfillment of the Requirement for the Award of the Degree of Masters of Arts in International Studies at the Institute of Diplomacy and International Studies, University of Nairobi.**

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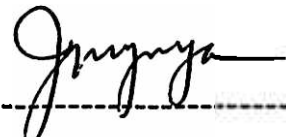
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## Declaration

This dissertation is my original work and has not been presented for award of degree in any other University.

Mwirigi Margaret Wairimu ----- Date 23/11/2010-----

This dissertation has been submitted for examination with my approval as University Supervisor

Prof J.D Olewe Nyunya ----- Date 25.11.2010-----

## **Dedication**

**This work is dedicated to my parents Mr. & Mrs. Mwirigi who have educated me to this level. This achievement, I owe it to them. To my brothers and Sisters for the moral support they have given me and finally to my fiancé John for his stirring love, patience and overwhelming support as I did the work.**

# **Abstract**

This study has investigated conflict issues on Kenya/Ethiopia border from 2000 to 2009. Conflicts, their causes, nature and mechanisms for management have been discussed. Transboundary resources as well as resources available on either side of the border have been elaborated and ways in which they can be used and managed for mutual benefits of the two people and as a way of conflict management has been discussed.

Successful case studies of shared transboundary resources for conflict management and principles of international law regarding utilization of shared resources have also been discussed. The study utilized both primary and secondary data. Primary data was obtained through interview schedules and questionnaires carried out through Ministries of Water and Irrigation, Northern Development and other Arid Lands, and Roads. Government's institutions such as NEMA and Secretariat of the National Security Council were also interviewed and from local communities on either side of the border as well as from Ethiopian Embassy in Nairobi.

The study established that conflict along the common border emanate from competition for water and pastures for animals, primitive cultural practices, porous border which allows proliferation of small arms and light weapons and political incitements. Further, the study established that the conflicts are manageable through mechanisms such as educating locals majority of whom are illiterate, development of infrastructure such as roads, schools and hospitals and watering systems, providing a supplement to pastoral way of live such as irrigation farming and good political leadership.

## **Acknowledgements**

I am grateful to my supervisor Prof. J.D. Olewe Nyunya who guided me throughout my research work. He shared with me credible ideas that assisted me a great deal in completing this study. To all my lecturers at the University, you are all part and parcel of this study; I really appreciate all of you for instilling in me valuable knowledge.

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Finally I thank all interviewees for taking time off their busy schedules to respond to my questions and whose information contributed positively to this study.

## List of Acronym

ASAL	-	Arid and Semi Arid Lands
AU	-	African Union
BDP	-	Basin Development Plan
BECC	-	Border Environmental Cooperation Commission
CBD	-	Convention of Biological Diversity
CESI	-	Centro Elettrotecnico Sperimentale Italiano
COMESA	-	Common Market for Eastern and Southern Africa
EP	-	Environmental Programme
ESIA	-	Environmental and Social Impact Assessment
EU	-	European Commission
FHI	-	Food for the Hungry International
IBWC	-	International Border Water Commission
IGAD	-	Intergovernmental Authority on Development
ICPDR	-	International Commission for protection of Danube River Basin
MRC	-	Mekong River Commission
MDI	-	Mid Day International
NEMA	-	National Environment Management Authority
NGO's	-	Non-Governmental Organizations
OLF	-	Oromo liberation front
SADC	-	Southern African Development Community
TB	-	Transboundary collaborative
TFCAs	-	Trans-frontier Conservation Areas
UN	-	United Nations
UNECE	-	United Nations Environmental Conventions for Europe
WFD	-	Water Framework Directive
WUP	-	Water Utilization Programme

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# Chapter One

## Introduction to the Study

### 1. Introduction

Kenya and Ethiopia continue to enjoy cordial and friendly relations since independence; in fact Ethiopia was the third country globally to establish a diplomatic mission in Nairobi in independent Kenya. The depth of these ties have seen the two East African countries collaborate in tackling regional challenges particularly the move to annex the Northern Frontier District (Northern Eastern Kenya and the Ogaden region of Ethiopia) by expansionary government of former Somalia president Said Barre.<sup>1</sup> The two countries have been cooperating at both in bilateral and multilateral fora, both are members to various regional organizations like Intergovernmental Authority on Development (IGAD), Common Market for Eastern and Southern Africa (COMESA) and international organizations like the African Union (AU) and the United Nations (UN). However cooperation between the two countries has not been without challenges particularly along the common boundary. Communities along the common boundary have continuously engaged in sporadic conflicts in search of grazing pasture, water and social amenities. Extreme cases of these competitions have resulted to loss of life and properties. These conflicts can be attributed to different levels of resource endowment and absence of suitable cooperative framework in their use. Moreover, even much less is known about the rich

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<sup>1</sup>Gesheker L. Charles, "Anti-Colonialism and Class Formation" *The Eastern Horn of Africa Before 1950*, Vol. 18, Issue 1 (1985), pp. 1-4

natural potentials, its transboundary fresh water resources as well as the manmade resources available and most importantly the desire and yearning of its peoples for cooperative and development relations.<sup>2</sup>

In Moyale town for example, the two countries are endowed with resources differently. Moyale on the Kenyan side of the boundary boasts of adequate social amenities such as health institutions, schools and Banks while the Moyale on the Ethiopian side there is adequate water supply, electricity, cheap fuel, cheap goods and service and better business opportunities especially restaurants, bars and other recreation facilities.<sup>3</sup>

On the same boundary but further to the north, the two countries share L.Turkana but the larger part of the Lake is in Kenya. However, there have been disputes over the use of waters of River Omo which is the main tributary of L.Turkana between riparian communities in Kenya and Ethiopia. River Omo supply 80% of water into L.Turkana, the other rivers Turkwel and Kerio, are seasonal.<sup>4</sup> Ethiopia is constructing a huge hydroelectrical power plant (Gibe 111) along River Omo which would severely curtail the lake's inflow, reduce water levels, increase salinity, destroy riparian forests, affect fisheries and push the lake's vulnerable ecosystem to the brink of collapse.<sup>5</sup> Other than Gibe 111, there is also Gibe 1 and Gibe 11.

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<sup>2</sup> Amare Guire, *Building Bridges in the Utilization of Transboundary Water Resources Under the Auspice of IGAD*, March, 2008

<sup>3</sup> Okello Duncan et al, *Towards a Common Resource Agenda: Resource Conflicts in East and Southern Africa-Politics, Policy and Law* May, 2004. P. 67

<sup>4</sup> Oba Gufu, *Ethnic Conflict on Ethiopia-Kenya Frontier: The Northern Frontier District of Kenya from 1903-1934* p. 36

<sup>5</sup> Author: *Why residents want Ethiopian dam on River Omo stopped urgently*, Standard Newspaper, 21<sup>st</sup> January 2010

Gibe 1 is operational and Gibe 11 is expected to be complete by the end of this month (February 2010)<sup>6</sup>

On the Eastern side the two countries again share River Dawa which rises from the Ethiopian Highlands and flow southwards until it reaches Kenya-Ethiopia border where it forms an international boundary between the two countries.<sup>7</sup> The River has been a source of conflict between the riparian communities emanating from small scale irrigations carried out by the upper riparian communities on either side of the border leading to shortage of water on the lower riparian communities. So far there is no management framework for River Dawa. Thus no legal regime or institutions currently exist for managing the use of the water along the river.

In general, an understanding of the conflict and its dynamics helps to identify the main sources of conflicts of all the conflicts generating factors, the most important ones are pastoral rangeland disputes, environmental stress and politics.<sup>8</sup> Each of these sources of conflict inflames and exacerbates the other and none can be properly understood in isolation from the other. The conflicts are characterized by raiding, assaults and banditry incidents and they emanate from feeling of clan supremacy, competition of grazing pastures and water, land ownership, territorial expansion and business rivalry.<sup>9</sup>

The conflicts must be understood in the context of pre-colonial and colonial continuations of ethnic conflicts. During pre-colonial periods the pastoral nomadic communities of the Horn of

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<sup>6</sup> Rotiken Kaiteken, *Report on field assessment of effect of construction of Gibe 111 in Addis Ababa*, June 5<sup>th</sup> 2009

<sup>7</sup> Amare Guire, *Building Bridges in the Utilization of Transboundary Water Resources Under the Auspice of IGAD*, March, 2008

<sup>8</sup> Hochet Peter et al, *Conflict over Access to Land & Water Resources within Sub-Saharan Dry Lands: Underlying factors, conflict dynamics and settlement processes*, September 2006 (FAO Report)

<sup>9</sup> Ibid p.15

Africa had interacted across shifting grazing resource borders. Land use by grazing was extensive. Groups dispersed widely during periods of rainfall to gain access to freshly growing pastures for their livestock.<sup>10</sup>

Boundaries between indigenous groups were always permeable and occasionally indistinct. Such social system that was mostly negotiated between different players changed with the establishment of colonial frontiers<sup>11</sup>

Colonial borders and frontiers reproduced conflicts. In the borderland regions, the relationships between communities were defined in terms of sets of claims over resources. The colonial Frontiers altered the meaning of resource access rights through the delimitations that resulted in groups automatically losing grazing and watering on the opposite sides of the Frontier. More importantly, in the new political Frontier, nationalities would also shift. Colonial borders and the administration by disrupting former alliances created new ethnic order.<sup>12</sup> Through administrative realignments, resource ownership was redefined, rights changed, re-creating resource poor and resource rich communities. Resource based conflicts should therefore be seen and analyzed within a policy and governance context. Further, the notion for marginalization both in political and material sense is much more useful in explaining the motivation for and cause of conflicts in the region.

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<sup>10</sup> Gufu Oba *Ethnic Conflicts on Ethiopia – Kenya Border: The Northern Frontier District of Kenya from 1903-1934* 20<sup>th</sup> June, 2009 p. 2

<sup>11</sup> Ibid p. 7

<sup>12</sup> Ibid

## **2. PROBLEM STATEMENT**

The border region is prone to periodic violent eruption of inter-communal conflicts which are manifested through incidents of raids, theft of livestock and fishing items, revenge and counter revenge, rape and banditry. Further, the area is underdeveloped, marginalized with poor infrastructure and extremely limited availability of basic social services.<sup>13</sup> Despite these limitations the region is endowed with sufficient resources which with proper use and management through mutual sharing and conservation can to a large extent boost conflict management in the area, ameliorate the life of the people and enhance the spirit of good neighbouriness.

Major resources that mainly causes conflict are water, pasture and business opportunities. Water resources such as wells and boreholes as well pastures cause conflict among herders while business opportunities is between businessmen especially in major towns like Moyale. Other water resources like Lake Turkana, conflict is mainly from fishermen, small scale farmers and environmentalists and civil society groups like friends of Lake Turkana. Competition over the use of River Dawa is mainly by small scale irrigation farmers on either side of the border. There are no legal frameworks of mutual resource sharing such as formal joint border agreement over the use and management of the available resources along the border by all the communities. Therefore this research seeks to address the following questions;

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<sup>13</sup> Kumssa Asfaw, *Conflict and Human Security in the North Rift and North Eastern Kenya* by, UN Centre for Regional Development, March 2009. P. 52

- What policy framework can be applied to promote mutual resource sharing among the communities living along the common boundary for optimal utilization of the available resources?
- Which are the most appropriate international water resources management principles to be applied in the use and management of the available transboundary water resources along the common border?
- Are there successful case studies in the world on cross-border mutual resource sharing that can be emulated?

### **3. OBJECTIVES**

#### **3.1 General Objective**

To establish strategies/modalities for mutual resource-sharing along the common border and in return address the causal factors fueling conflicts with an eye to influencing effective policy decisions concerning the communities living along the common border.

#### **3.2 Specific Objectives**

1. To understand the conflict along the Kenya-Ethiopia border (actors, issues, interests and cause)
2. To explore proper mechanisms for mutual resource sharing among communities that will promote conflict management in the sub-region.
3. To recommend conflict management strategies that would be effective in managing cross-border conflicts and enhance resource sharing.

### **4. JUSTIFICATION**

#### **Academic Justification**



Violent conflicts have always been part of human history and their management remains one of the key global challenges that we face. Despite the abundance of mechanism and initiatives to address these conflicts their recurrence continue to be experienced with devastating effects. Many scholars have done research on use and management of transboundary resources for conflict management such as Eyal Benvenisti work on “Sharing Transboundary Resources: International law Optimal Resource Use”, John E. Morelins on “Transboundary Water Resources: a Foundation for Regional Stability in Central Asia” Richard E. Just at al “Conflict and Cooperation on Transboundary Water Resources “and many more but none has been done specifically on the Kenya-Ethiopia border.

This study aims to enrich the literature on conflict management by focusing on the various ways the available resources along the Kenya- Ethiopia border can be mutually utilized by sharing to enhance realization of sustainable peace and stability in the sub-region and consequently promote economic, social and political developments. In addition the study will also give a model that can be used to guide management of conflicts along any other border in future.

### **Policy Justification**

This study is in line with Kenya’s Vision 2030 which aims at providing security for all persons and property by 2012. The country is obliged to adopt policy, legal and institutional framework in security, peace building and conflict management<sup>14</sup> in order to achieve her goal of a middle level income nation by 2030. For a long time the area has been marginalized due to lack of tangible policies that would address the social-economic needs of the people in the area hence

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<sup>14</sup> See *Kenya’ Vision 2030 : A Globally Competitive and Prosperous Kenya* p. 25

conflicts as people compete for dwindling resources. Existing policies related to political issues has not also addressed conflicts in the area and therefore a need for viable policies that who help address issues like political incitement which is a major cause of conflicts.

Mutual resources-sharing avoids duplication of efforts on either side of border in trying to provide communities with basic needs and allows the pooling of resources such food, land, water, pastures and other social amenities as well as financial, human resources and risk sharing on both sides of the border. It thus permits the realization of economies of scale and scope in the border area.<sup>15</sup> This can only be achieved through putting in place viable policies/modalities for use and management of the available resources along the common border.

Along this border, communities share resources informally through traditional mechanisms of negotiations which allow communities on either side of the border access resources such as pastures or water but these mechanisms have not succeeded in managing conflict and fostering economic, social and political development in the region. Therefore there is need for formal arrangements (legal mechanisms) to be put in place for optimal use and management of the available resources at the common border.

It is ironical that the communities living along the border suffer extreme levels of poverty, while they live in a sub-region which is rich in both natural and manmade resources. With more efficient management, these resources could dramatically transform the economic conditions of the population and alleviate their suffering. There is no doubt that a more efficient exploitation of the available natural resources through strategic measures such as mutual sharing

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<sup>15</sup> Ibid p.21

that is characterized by sustainable and replenishment mind by all communities could promote the region into an economic hub and raise the living standards of the people.

There is no coherent policy framework to manage pastoral conflict along the border; existing response initiatives are characterized by coercive military interventions by state and advocacy interventions by civil society.<sup>16</sup>

The study challenges the effectiveness of the existing conflict management mechanism and suggests collaborative strategies as better options for managing conflict which can be achieved through mutual resource sharing along the common border. These collaborative strategies are policy frameworks that are suitable for the common border and implementable by both countries. It points out that the Joint Border Commissioners, /Administrators for Cooperation existing between the two countries and use of traditional clansmen so far have not been able to manage conflicts along the border in a more constructive manner. The study pinpoints short comings of existing mechanisms that could be addressed to improve its performance in the days to come and at the same time proposes a co-management arrangement to ensure proper use and sustainability of the available resources and in particular Lake Turkana and River Dawa and to constructively manage the conflict in the area.

Successful conflict management mechanisms in this border will also be applied in other border areas that are prone to conflicts of the same nature like the border Kenya and Sudan, Ethiopia and Djibouti and Kenya and Uganda border.

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<sup>16</sup> Mwaure Ciru and Scemedi Susanne, *Early warning and conflict management in the horn of Africa*, (Asmara, Red Sea Press, 2002) p.153

#### 4 LITERATURE REVIEW

Gufu notes subdivisions created by colonial masters as the root causes of conflict over resources among the pastoral communities. The writer informs that through subdivisions of the grazing land by the colonial masters, pastoral groups were separated from their key resources such as wells and that through resource transfer from one group to another created structural resource scarcity.<sup>17</sup> According to Castro many conflicts over natural resources are rooted in inequities and inefficiencies in the dual systems of statutory and customary tenure, often established in colonial times and perpetuated since independence.<sup>18</sup> Similarly, Mwaura and Schemidi believe that apart from pastoral conflict emanating from competition for resources, it is historically linked to the violence that accompanied the state formation in the colonial era. The genesis of these conflicts was triggered by colonial state policy.<sup>19</sup> Theodore et al who believes that most of the conflicts in third world countries involves attempt of states to develop secure borders to unify ethnic/language and religious groups divided by colonial frontiers.<sup>20</sup>

Gebrehiwot et al also informs that the partitioning of Africa by the colonial powers left behind ethnic groups and communities sharing common cultures, religions and languages divided by arbitrary boundaries inherited by the African states after decolonization. The areas inhabited by the divided population are usually marginalized due to their remoteness from the political and economic centers.<sup>21</sup>

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<sup>17</sup> Gufu Oba *Ethnic Conflicts on Ethiopia – Kenya Border: The Northern Frontier District of Kenya from 1903-1934* 20<sup>th</sup> June, 2009

<sup>18</sup> Peter Castro, *Natural Resources, Conflict, and Peace building: A Summary*, October 23, 2008

<sup>19</sup> Ibid

<sup>20</sup> Coloumbus A. Theodore and Wolfe H.James *Introduction to International Relations: Power and Justice 4<sup>th</sup> Edition ()* p. 596

<sup>21</sup> Dr Ageba Gebrehiwot and Abebe andulem *cross-border economic cooperation in the IGAD region*, 2006 .p 17

According to Deng, underlying political tensions compound conflicts either by providing a veneer for conflict escalation or by imposing an additional hurdle in the search for solution.<sup>22</sup> The writer holds that a successful resolution of regional economic and conflict relating to the sharing of natural resources must be based on durable political cooperation coupled by the mechanisms formal or informal for coordinating policies concerning the sharing of resources.<sup>23</sup>

Conflict over resources in Kenya began long before independence. Mwaniki observes that two communities in Kenya were victims of unending conflict, the colonial administrators and the settlers.<sup>24</sup> The war to guard resources in Kenya began after world war partly on the experience on the African soldiers in war and on land shortage and other grievances. The scholar points out that the first conflict over resources in recorded history was in 1920, where kikuyu association jealously guarded alienation of land district near Nairobi. This event marked the genesis of conflict over resources in Kenya.<sup>25</sup>

The Multiparty politics especially in Kenya brought about new dimensions of conflicts. Communities were divided along political and ideological lines, which gave rise to protracted and institutionalized waves of tribal and land clashes.<sup>26</sup>

Mohamud and Ruto proposes that the government should formulate policies for conflict resolution that provide for processes and programs that enhance and facilitate economic growth, expanded trade, strategic food stocks, and poverty alleviation across border and especially in

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<sup>22</sup> Deng M. Francis *Sovereignty as Responsibility: Conflict Management in Africa* . ( ) P. 121

<sup>23</sup> Ibid p. 192.

<sup>24</sup> Mwaniki Telly W. et al, *Peace Building and Conflict Management in Kenya: Joint Peace Study of North rift in Kenya* (Nairobi, Paulines Publication Africa, 2007) p.32

<sup>25</sup> Ibid p. 33

<sup>26</sup> Mohamud A. and Ruto P. *Report on Conflict management in Kenya*, 2006 p.1

ASAL areas.<sup>27</sup> These are policies for optimal utilization of available resources and for removing marginalization of border areas.

In this era of globalization borders are perceived to be potential bridges rather than barriers to human interaction. This is in the essence of borders and their function. The European Union is often presented as a unique case of how a traditional border can be transformed and even disappears through process of economic integration but areas of conflict are not included in this vision of the transformation of borders to bridges.<sup>28</sup> Through mutual resources sharing, communities will build confidence and trust that can take the cooperation to higher levels of regional integration.

Even in mutually beneficial cross-border cooperation ventures, perceptions are not symmetric across borders<sup>29</sup>. Like the case of Kenya Ethiopia border, Ethiopian has been accusing Kenyan of hosting Oromo liberation front (OLF) and this has always been the cause of deadly conflict that occurs when Ethiopian army are in pursuit of OLF in Kenyan side.

### **5.1 Kenya-Ethionia Border**

The border is the best demarcated among other borders in the Horn Africa countries. Re-demarcation of lost pillars is yet to be done. Thus conflict as a result of fuzzy boundary does not arise. The border has generally arid and semi arid environment inhabited by pastoralists and agro-pastoralists and governed by livestock based economies. The very nature of pastoral

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<sup>27</sup> Ibid P.2

<sup>28</sup> See Arieli Tamar, *Conflict Management at Border Enterprises*, 2008 p. 28

<sup>29</sup> Ibid. p. 30

livelihoods demands a high degree of mobility guided by the need for access to water and grazing land.<sup>30</sup> Symbiotic relationships between pastoralists transcend modern state boundaries. Violence among pastoral and agro-pastoral groups is fundamentally political and is closely associated with everyday experiences of marginalization, exclusion and oppression. Despite climate change conflicts, political dynamic are as important.<sup>31</sup>

Conflict patterns along the border have become gradually more vicious and less controllable and are characterized by complex causality: stock theft; proliferation of illicit arms; inadequate policing and state security arrangements; the diminishing role of traditional governance systems; competition over control and access to natural resources such as pasture and water; land issues; political incitements; ethnocentrism; increasing levels of poverty; and idleness amongst the youth.<sup>32</sup> Conflicts are aggravated by the failure on the state's part to understand traditional grazing boundaries. Further for states to provide adequate physical security has led to most pastoralist communities establishing armed militias to protect themselves.<sup>33</sup> Violent conflicts have had very negative economic and social consequences and adversely affect human security: loss of human life and property; displacements of people disruption of socio-economic activities and increased dependency syndrome on food relief.<sup>34</sup>

## **5.2 Mutual Resources Sharing along the Common Borders**

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<sup>30</sup> C. Mwaura and S. Schemidi, *Early Warning and Conflict Management in the Horn of Africa* ( The Redsea Press, 2002, Asmara) p. 38

<sup>31</sup> Conference paper: *Environment Peace Building: Managing Natural Resource Conflicts in a Changing world:swisspeace Annual Conference 2007* p. 46

<sup>32</sup> Gakuo Oscar, *Conflict in the 'Badlands': The Turbi Massacre in Marsabit District*, Taylor and Francis, 2006 p. 44

<sup>33</sup> Kumssa Asfaw, *Conflict and human security in the North Rift and North Eastern Kenya* ,Vol. 1, May 2009 p.36

<sup>34</sup> Ibid p. 45

Forbes advocates that frontiers transactions are virtually non-existence along a border which is under stress of confrontation and the treat of conflict<sup>35</sup>. He proposes that the dramatic aspects of border theory adopted by most geopolitical researchers in the past should be discarded and that instead the focus should on the ordinary life along borders. Goodale et al observes that people on both sides of the border must forsee a clear advantage to cooperate such as economic benefits, resource sharing or other mutual exchanges.<sup>36</sup> The two writers agree that cooperation cannot be a reasonable goal unless people living along the boundary change their attitude, points of view and philosophies towards each other. Savir holds the same view with Goodale in that he believes that, on a national level, cooperative activities can be based on neighbourings relations. The writer affirms that cooperation will be more concrete because of mutual geographic and economic dependence on the available resources.<sup>37</sup>

Conflicts emanating from competition over resources are seen to have potential for escalating partly due to the zero-sum nature of the distributive concerns and to the absence of reliable mechanism for effecting an equitable redistribution of the associated benefits among the regional partners.<sup>38</sup>

Absence of legal mechanisms for proper utilization of resources especially transboundary water resources such as rivers is a detrimental to downstream riparian<sup>39</sup> Guo sees countries sharing a resource say a river as being interdependent and that while the consequences of

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<sup>35</sup> Vivian L. Forbes, *Conflict and Cooperation in Managing Maritime Space in Semi-Enclosed Sea*, (Nus Press, London, 2001) p. 30

<sup>36</sup> Goodale M. Urami, *Transboundary Protected areas: the Viability of Regional Conservation Strategies*. (Routledge, Routledge publishers, 2003) p.240

<sup>37</sup> Savir Uri, *Peace First: A New Model to End War*, (, Berrett Kochler Publishers, 2008) p. 16

<sup>38</sup> Ibid p.

<sup>39</sup> Dinar Sholmi *International Water Treaties: Negotiation and Cooperation along Transboundary Rivers* ( New York, Routledge Publisher, 2008) p.10718 January 2010



scarcity might intensify a given river dispute, it may be this same characteristic of scarcity that provide the impetus for cooperation. He notes that the degree of regional scarcity, together with a mutual perceived need to coordinate uses along the river, creates urgency and incentives toward treaty formation.<sup>40</sup>

### **5.3 Successful Case Studies on Management of Shared Transboundary Water Resource**

Incomati River Basin is shared by three countries; South Africa, Swaziland and Mozambique. The Basin has a comprehensive joint riparian management which recognizes the rights of all riparian states to specific volume of water, elaborate water sharing formulae and specific water quality standards to be used.<sup>41</sup> Due to this agreement the basin is no longer at risk and the institution has survived difficult years, have shown high level of resilience and have evolved substantially since 1999.<sup>42</sup>

Cambodia, Laos, Thailand and Vietnam, guided by the United Nations and the Mekong River Commission, have been able to cooperate since 1957. This is well manifested during the Vietnam War as they maintained technical sharing agreements throughout the War.<sup>43</sup> The agreement has stood the test of time.

The Indus River Commission was created in 1960 following a dispute between India and Pakistan. Since then the two countries have two waged war against each other but the commission have remained active. This has provided a good example of the dichotomy of

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<sup>40</sup> Guo Rongxing, *Cross-Border Resource Management : Theory and Practice* (, Elsevier,2005) p.106

<sup>41</sup> Varis Olli et al *Management of Transboundary rivers and Lakes*, (Nairobi, Springer, 2008) p.39

<sup>42</sup> Ibid

<sup>43</sup> Radis M. Abigail, *The Role of Resource sharing Initiatives in Peace-Building: the Case of Peace Parks*. Vol. 2006 p.34

conflict and cooperation. The commission is mandated to carry out periodical inspection of the river to monitor enforcement of the water sharing agreement.<sup>44</sup>

### **5.3 Challenges/complexity in sharing water resources (Rivers and Lakes)**

One of the major challenges in sharing of these resources is that states are not equal, they have different goals or interests in the use of the resource and at the same time they are not equal economically<sup>45</sup>. Some states are well developed have more resources for economic development and therefore would wish to invest in projects like Hydroelectricity Production while small state would rely on the river for agricultural and domestic use. This makes it complex in allocating the volumes of water that each state should use.

Sovereignty and absence of sound joint management of shared resources across borders. Management of transboundary resources has been controversial because of consideration of national sovereignty. People jealously guard their sovereign powers to manage the activities within their borders.<sup>46</sup> For example the case of Brazil and its Amazon forest during the United Nations Conference on shared resources, it took a firm stand against passing a resolution which in its view was to pre-empt certain future national activities in the forest irrespective of the importance of such activities in terms of its own interests. The resolution had to be watered down to ensure a unanimous agreement.<sup>47</sup> This means that states should focus on establishment of “creative joint Management Commission for cooperation rather than emphasizes of the territory integrity.

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<sup>44</sup> Ibid p.35

<sup>45</sup> Ibid

<sup>46</sup> Ibid p. 9

<sup>47</sup> Ibid

The resource being the sole dependent of the communities or the state for its needs is another complexity in sharing resources along the common border. This is more to countries that receives key resources from other countries for example Egypt has curtailed Ethiopia from using water of blue Nile for irrigation because the river is the major sources of water in Egypt. Without the Nile's waters, Egypt could not survive as a nation, since it relies on the Nile for 98 per cent of its freshwater requirements.<sup>48</sup>

#### **5.4 Institutions for Cross-Border Resource Management**

##### **The Transboundary Water Resources Management Principles**

These are principles that are recognized by international convention, judicial decisions and international treaties. They include; the theory of limited territorial sovereignty; the principle of equitable and reasonable utilization; an obligation not to cause significant harm; the principles of cooperation, information exchange, notification and consultation; and the peaceful settlement of disputes.<sup>49</sup> These principles form the basis of the 1966 Helsinki Rules on the Uses of the Waters of International Rivers and the 1997 UN Convention on Non- Navigational Uses of International Watercourses. If the two countries along the common border would employ these principles in dealing with resource use, allocation and management, these would help in managing conflicts along the common border.

##### **Helsinki rules on the uses of waters of international rivers**

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<sup>48</sup> *Natural Resources and Production- [www.uneca.org/arial/chart08.pdf](http://www.uneca.org/arial/chart08.pdf).*

<sup>49</sup> Rahaman M.Muhammad, *Principles of Transboundary Water Resources Management and Ganges Treaties: An Analysis*, (Vol. 25, No. 1, 159–173, March 2009) p. 160

Helsinki rules on the uses of waters of international rivers were established in 1966. The rules adopted the concepts of limited territorial sovereignty by stating that a riparian state of a basin is entitled, “within its territory, to a reasonable and equitable share in the beneficial uses of the waters of an international drainage basin.”<sup>50</sup> As such it acts as a restriction on the doctrines of absolute territorial sovereignty and absolute territorial integrity. It also provides for any riparian state planning to undertake a project that would alter the flow of a transboundary water system should give prior notice to any downstream riparian state that may be affected.

#### **The United Nations Convention on the Non-navigational Uses of International Watercourses.**

In May 1997, the United Nations General Assembly adopted the Convention on the law of Non-navigational Uses of International Watercourses. The most significant aspects of the Convention are Article 5, 6 and 7. These three articles contain two major provisions that are centerpiece of international law on Non-navigational Uses of Internationals Watercourses. These are “equitable utilization” and “no significant harm”. In Article 6 of the Convention it sets out the factors that are to be considered in determining what is equitable. They mainly include geographical, population, hydrological, climate, social and economic needs of watercourse states involved, effects of use by one state on another, existing and potential uses, conservation, and availability of alternatives of comparable value to a particular planned or existing use.<sup>51</sup>

The other important aspect of the Convention is that, it imposes under Article 8 a duty on states to enter into cooperation in the utilization of their shared water resources. In the same vein Article 11 and 17 of the Convention sets out a requirement on riparian states to provide

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<sup>50</sup> See the 1966 *Helsinki Rules on the Uses of Waters of International Rivers*.

<sup>51</sup> See the 1997 *United Nations Convention on the Non-Navigation Uses of Internal Watercourses*.

notification of planned measures on an international watercourse. This convention can be used by the two countries as point of reference in their cooperation over the use of River Omo which drains into Lake Turkana. The same can be used in the mutual sharing of waters of River Dawa along the same border.

## **5 THEORETICAL FRAMEWORK**

This study will be guided by the neo-liberal theoretical framework which assumes that all states have mutual interest and can gain from cooperation.<sup>52</sup> Neo-Liberalists advocates for the need for states and individual to create equality and fair play. It further emphasis on how democratic states should become inter-dependence within the framework of shared prosperity and mutual respect and through international institutions which binds states together for a common purpose. Application of the views held by liberalists can be used by the stakeholders to make informed decisions and effective policies to solve or mitigate the recurrence of conflicts along the common border.

The study recognizes the basic needs theory which is based on the hypothesis that humans have basic needs that have to be met in order to maintain stable societies. Further it acknowledges the theory of frustration aggression which is concerned with wants and desires.<sup>53</sup> This is because the communities living along the common border have needs that have to be met as well as desires and wants that they would like to fulfill. Since the study is focused on mutual resources sharing the neo-liberalist theory of cooperation covers they human need theory as well as the frustration aggression theory because if cooperation and understanding is embraced by all

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<sup>52</sup> Hasenclever Andres et al, *Theories of International Regimes* (Cambridge, Cambridge University Press, 1997) p. 83  
<sup>53</sup> See William G. Cummingham, *Theoretical Framework for Conflict Resolution*

the communities then automatically the needs will be met and wants and desires will be fulfilled as well.

Resource based conflicts have often been explained in terms of scarcity based theories which view the conflicts as born out of the struggle for the scarce resources often induced by population pressure (Malthusian) which lead to a war of all against all (Hobbesian) in the struggle for the fittest.<sup>54</sup> Competition is more intense where the forms of organisms are most similar and are struggling for similar resources. Contrary to this view, this study will focus on those theories that emphasize on cooperation for mutual benefits.

Realist school of thought as advanced by proponents like Hans Morgenthau informs that states are self-interested, power-seeking rational actors, who seek to maximize their security and chances of survival.<sup>55</sup> Any cooperation between states is explained as functional in order to maximize each individual state's security. A state will always see the neighbour as an enemy and therefore tries to gain much as possible at the expense of the other state.<sup>56</sup> Wartz argues that states "at minimum, seek their own preservation and at a maximum, drive for universal domination"<sup>57</sup> this implies desire for gains that comes out of competition and use of power. Thus realists therefore imply that, there is no room for cooperation for mutual benefits between states. It is this view of realists that the study tries to disapprove by bringing into focus a possibility of cooperation between the two states by borrowing ideas of liberalists' school of thought.

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<sup>54</sup> Gayon Jean *Darwinism's Struggle for Survival, Heredity and the Hypothesis of Natural Selection* ( Cambridge, Cambridge University Press, 1998) p. 26

<sup>55</sup> Morgenthau J. Hans *Politics Among Nations : The Struggle for Power and Peace 6<sup>th</sup> Edition* (New Delhi, Kalyani Publishers, 2004) p. 4

<sup>56</sup> Donnelly Jack *Realist and International Relations* ( Cambridge, Cambridge University Press, 2000) p. 44

<sup>57</sup> Ibid

The liberal school of thought presents a contrary debate to that of realist. Proponents like Robert Keohane and also Joseph Nye see states being in a position to cooperate for mutual benefits. Liberal institutionalism believes that cooperation between states can be enhanced even without a hegemonic player to enforce compliance with agreements. They believe that international relations does not have to be a zero-sum game and that mutual benefits arising out of cooperation are possible because states are not always preoccupied with relative gains.<sup>58</sup> Neo-liberal thinks that actors with common interests try to maximize common gains and they believe in maximizing the total amount of gains for all parties involved and their economic welfare<sup>59</sup> and this is the reason that this study will be guided by the neo- liberalist theory.

## 7. HYPOTHESIS

1. Sharing of resources along the common boundary is likely to reduce conflicts between neighbouring communities.
2. It is possible for countries sharing a common border to cooperate in use and managing transboundary resources as well as resources on either side border for the benefit of all.
3. Traditional mechanisms are less likely to reduce conflicts at the common border.

## 8. RESEARCH METHODOLOGY

This study will utilize both primary and secondary data that illustrates how mutual-resource sharing can help in conflicts management, enhance harmonious co-existence, boost economic

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<sup>58</sup> Baylis J. and Smith S. (eds) *The Globalization of World Politics : An Introduction to International Relations 2<sup>nd</sup> Edition* p.169

<sup>59</sup> J. Baylis and S. Smith, *The Globalization of World Politics*, (Oxford: Oxford University Press, 2005) p.182

development through trade and improve the living standards of people living along the common border. Primary data will be obtained through interviews and structured questionnaires.

The researcher will personally distribute questionnaires to the respondents and after a week the questionnaires will be collected. Questionnaires shall be distributed to the NGO's working at border, Governments Administrators on either side of the border and in the Ministries of Water, Energy and Environment. Members of Kenya-Ethiopia Joint Border Commissioners/Administrators will also be interviewed

The Interviews will be undertaken from the Ministry of Water, Ministry of State for Development of Northern Kenya and other arid Lands, Ministry of Special Programmes, National Environment Management Authority (NEMA) and the Ministry of Foreign Affairs. The Research will also interview officials from the Ethiopian Embassy in Nairobi and NGO working in the area like Food for the Hungry, Care International-Kenya Chatter, World Vision, ALRED, CIFA, Oxfarm and Farm Africa. More attention will be on those working on both sides of the border like the World Vision and CIFA.

The interviewer shall structure questionnaires for the Ministries as per the role of each Ministry. For example in the Ministry of water, questionnaires will be based on how the water resources along the border are used and managed, in the NEMA it will be based on the environmental management, and the Ministry of Development of Northern Kenya will be based on arrangement that is already made for northern development.

In each Ministry the Researcher will interview two people and from NGOs the same. Members of the Joint Border Commissioners/Administrators will also be interviewed.



The local communities on either side of the border will be supplied with questionnaires and the researcher will prepare about 200 questionnaires which will be distributed in areas like Sololo, Mandela, Moyale and L.Turkana area.

Secondary data will be obtained from books, journals, UN conventions on cross-border resources use. Greater attention will be paid on journals and books specifically touching areas of resource sharing and conflict managements and the Transboundary Water Resources Management Principles.

The researcher will use statistical methods like mean, standard deviation and the mode to analyze quantitative data collected. Qualitative data shall be analyzed by establishing pattern, trends and frequency of conflicts occurrence in the sub-region. In general the qualitative information will be presented in a narrative form and where possible in a tabular form.

## **9. CHAPTER OUTLINE**

Chapter one forms an introduction to the study while chapter two will focus on views of different scholars on resource sharing for conflict management and especially on shared resources (literature review). Chapter three will identify various successful case studies on cross- border resource sharing for conflict management which can be used as a model for the case of Kenya Ethiopia border. Chapter four covers principles and conventions on use and management of shared resources while chapter five contains data analysis and finally chapter six gives conclusions and recommendations.

# Chapter Two

## Literature Review

### 2.1 Introduction

This chapter describes the nature of the Kenya-Ethiopia Border and livelihood of communities living on either side of the border. It gives an over view of the general information concerning sharing and shared resources and finally it explains the causes of conflicts in the area. The chapter in conclusion suggests possible ways in which conflicts can be managed.

The Horn of Africa region has the largest population of pastoralist in the world.<sup>60</sup>

The International border between Kenya and Ethiopia is over 600km in length from East to West and occurs in a remote range region <sup>61</sup> Majority of the communities living along the border are pastoralists who are nomadic and live primarily in arid and semi arid conditions thus depend solely for their livelihood on livestock such as cattle, sheep, goat and camel. Only few communities living near Lake Turkana practice some small scale farming and fishing. In the recent past, the border has witnessed increased conflict especially between Gabra and Borana and Turkana and Merille of Ethiopia.

Conflicts over resources whether natural or man-made arise when there is disagreement and dispute over access, control and use. Conflicts occur because people have different uses or

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<sup>60</sup> See Kennedy Mkutu, *Pastoralism and Conflict in the Horn of Africa* p. 4

<sup>61</sup> Kagunyu Anastasia et al *Pastoral Conflict and Use of Kenya Resources along the Ethiopia- Kenya Border : Implication for Policy and Development* 2007 P. 1

want to manage them differently.<sup>62</sup> Addressing conflict along the Kenya-Ethiopia border is a prerequisite for sustainable use and management of available resources. Conflicts along the common border over resources are growing in scope, magnitude and intensity. If not addressed can escalate into violence, cause environmental degradation, hinder economic development and undermine livelihoods.<sup>63</sup>

## **2.2 Causes of conflicts**

### **Competition for Scarce Resources**

One of the major causes of conflict along the border is competition for water and pasture on either side of the border. Pastoralist groups across the region depend on the same communal pool of natural resources. Communities at times deny each other access to water or pastures and as a result conflict arises which causes even deaths like the case of a Kenyan Policeman who was killed on 28<sup>th</sup> Feb, 2010 after the Turkana communities denied Ethiopian herdsman access to pastures and water near Lake Turkana.<sup>64</sup> This was not the first instance this year on 24<sup>th</sup> January 2010, Merille militiamen killed three people including an administration policeman and a police reservist and abducted three Kenyan fishermen. These conflicts have been heightened by the Ethiopian government construction of a huge dam for hydroelectricity power generation on River Omo which is the main tributary of Kenya's Lake Turkana

### **Ethnic Animosity**

Communities at the border tend to engage in conflict arising from, political incitement, ethnic animosity and marginalization of the area. For example in 12<sup>th</sup> July 2005, 70 people were

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<sup>62</sup> Hart Nancy and Castro Peter( Eds) *Conflict and Natural Resource Management (FAO publication, 2000)* p.1

<sup>63</sup> *Ibid* p. 19

<sup>64</sup> *See Dairy Nation 28<sup>th</sup> February 2010* p.15

killed along the border area of Marsabit District among them 22 school children. The killers were suspected to be of Borana ethnic group. The conflict was attributed to inter-communal animosity exacerbated by political rivalry.

#### Sub-division of lands for Administration Purpose

Conflicts over resources along the border such as water, pastures and business opportunities have a history from colonial administration which subdivided pastoral land hence separating communities and limiting resource access. This has been perpetuated to date for example the demarcation of parliamentary constituencies in Kenya's Northeastern Mandera district has also had the effect of dividing the pastoral communities along clan lines, creating animosity among people who might have shared grazing land before the delineation of political boundaries. This applies also to Federal regions of Government on the Ethiopian side where a given community cannot access resources from another federal administrative area.<sup>65</sup> On the Kenyan side demarcation of constituencies is what caused conflict between Murule and Garre as Garre were said to have encroached the land belonging to Murule after the division constituency yet to them they were going to graze in their former land.<sup>66</sup>

Before colonialism, communities along this border used to interact freely and they were united, could solve their problems amicably through traditional means but this changed with creation of artificial borders by colonial masters and enhanced by modern leaders even after independence and worse still with globalization that brought about technological advancement,

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<sup>65</sup> Gemtessa Kejela, *Livelihood Diversification in Borana Pastoral Communities of Ethiopia : Prospect and Challenges*. P.1

<sup>66</sup> <http://www.irinnews.org/report>

communities no longer trust each other. This has led to reduced or even cut-off cross-border communication and controlled trade with negative economic impact on either side of the border.

#### Absence of Government Security Officers in Some Areas

The absence of the government in some parts and lack of enough state security personnel in other areas has led to feeling of insecurity among the local communities forcing them to take law into their own hands to protect themselves from attacks. This has exacerbated the proliferation of small arms and light weapons which makes conflict management more complex<sup>67</sup>. Feeling of insecurity is more on the Kenyans as the governments often do disarmament that makes peoples feels insecure from the Ethiopians who are always armed.

#### Weak Traditional Mechanisms for Conflict Management

Along the common border, pastoral access and use of grazing resources such as water and pastures have increasingly been characterized by armed confrontations over diminishing resources and reduced access. Poor mechanisms on the access of these resources is as a result of weakening of traditional customary institutions (set rules) due to outside influences of various actors such as government authorities, religious leaders and NGOs.<sup>68</sup> Therefore, an effective institution to manage the armed conflicts and enhance proper utilizations of the resources along the common border is crucial.

Weakening of traditional conflict resolution mechanisms is encouraging conflicts because statutory laws cannot be a substitute. This is due to the fact that traditional mechanisms are closely bound with social-political and economic realities of the lifestyles of the communities.

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<sup>67</sup> A. Mohamud and P.Ruto, *Conflict Management in Kenya: Towards Policy and Strategy*, 2006 P. 32

<sup>68</sup> Unruh D Jon. *Changing conflict resolution institutions in the Ethiopian pastoral commons: the role of armed confrontation in rule-making* 2006 p. 130

The mechanisms are rooted in the culture and history of the people.<sup>69</sup> Indigenous system such as Gadaa system of conflict resolution used to be very effective in management and use of resources such as water and pasture in Northern Kenya and Southern Ethiopia but use of statutory system of conflict management has weakened the use of Gadaa systems something which has aggravated occurrence of sporadic conflicts because statutory laws cannot work in absence of traditional mechanism. Due to diminishing role of tradition mechanisms of conflict resolutions people now operate in clique<sup>70</sup> that are hard to break since they allege to be community-organized security groups.

#### Changing Pastoral Lands to Other Uses

Conflicts along the common border have been aggravated by the policies that are made at the national levels without consideration of the effects they will have on the pastoralists. For example pastoralists need seasonally varied grazing lands and water sources for their different livestock species. Therefore freedom of movement over large areas is a crucial element of the pastoralists' resource management system in the dry lands. However, land tenures that both governments continue to apply/implement jeopardize pastoral livelihood. For example in Kenya 'land tenure is based on English property law, which does not recognize the communal system as understood and practiced by pastoralists. Similarly, customary tenure arrangements in Ethiopia have been increasingly 'subordinated to unitary national land legislation laws on the basis of issues relevant primarily to the arable agriculture in the highlands.'<sup>71</sup> In this case pastoral groups

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<sup>69</sup> Chamedas Dasalegn, *Indigenous Systems of Conflict Resolution in Oromia, Ethiopia* (Johannesburg, 2005) p. 5

<sup>70</sup> [www.kenvironews.wordpress.com/.../what-drives-conflict-in-northern-kenya](http://www.kenvironews.wordpress.com/.../what-drives-conflict-in-northern-kenya)

<sup>71</sup> Pavanello Sara, *Pastoralists' Vulnerability in the Horn of Africa: Exploring Political Marginalization, Donors' Policies, and Cross-Border Issues* (London, 2009) p.13

are not able to assert their land rights and they continue losing their grazing lands for other purposes such as irrigation schemes, conservation projects and natural reserves. Something that continues to fuel conflicts along the border.

Establishment of commercial Ranches has lead to loss of traditional pastoral lands.<sup>72</sup> The ranches are owned by economically powerful and politically well connected individuals or groups. This include Laikipia ranches in Kenya and Dambala Wachu ranches in Ethiopia.

#### Presence of Rebel Groups in Some Areas

Some communities along the border have been involved in major conflicts and many have joined armed opposition groups such as Oromo Liberation Front (OLF) in Southern Ethiopia. Conflicts have always erupted when Ethiopian military forces invade Kenyan side of the border in such of rebel groups. This act always elicits other conflicts that are not related to rebel force search heightening animosity between communities.

#### Lack of proper mechanisms of conflict managements

There is need to address the problem of insecurity along the common border in a more comprehensive and reasonable approach. For example currently the two government have emphasized on the use of force to restore order at the border, Ethiopia has deployed military contingents at the border to beef up security while Kenya on the other has tried to deploy more police officers at the border to ensure that there is security but this seems not to work especially on Kenyan side because the border is extensive thus strains the numbers of police officers deployed to man it. Also these police officers have become the targets of militia groups from

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<sup>72</sup> <http://www2.ohchr.org> –Issues of minorities-pastoral groups.

Ethiopia. Many police officers have lost their lives along the border in the name of providing security recently being an GSU officers who was killed by militia men from Ethiopia<sup>73</sup>

### Proliferation of Small Arms and Light Weapons

The two countries do not have joint disarmament and development action plan as it the case of Kenya and Uganda. This has perpetuated easy supply and transfer of weapons, misuse through violation of others rights, general insecurity, cattle rustling, impunity and instability in the area.<sup>74</sup> Immense resources are said to be used in addressing problems of small arms and light weapons at the expense of development in Northern part of Kenya especially in disarmament programmes.

Regional Instability in some countries such as Somalia and Sudan enhance proliferation of small arms and light weapons.

### Cultural Practices

Cultural practices along the common border are major causes of conflicts. In some communities for a morran to marry he must kill a person from another community. This is more among the Rendilles in Kenya who tend to kill Gall communities who are their neighbours and Dannesseck, Ethiopian across the border. This is perpetuated by women who despise men who have failed to show that they are “real men” through killing and cannot marry them. Mothers also despise their sons who have not killed and regard them as cowards with disgrace to the family. All this has made management of the conflict more complex hence frequent occurrence especially during initiations.

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<sup>73</sup> See Standard Newspaper, Sunday 21<sup>st</sup> March 2010, *Neglected Borders that Fuels Insecurity*

<sup>74</sup> See *Workshop Report on Consultative Forum on Peace and Security for Members of Parliament from Arid and Semi Arid Areas.*,2008, P. 5



### **2.3 Suggested Solutions to Causes of Conflicts at the Common Border**

In reference to water, no nation has gone to war specifically over water resources for thousands of years. International water disputes even among fierce enemies are resolved peacefully, even as conflicts erupt over other issues. Instances of cooperation between riparian nations out number conflicts by far.<sup>75</sup> It is on this basis that this study tries to focus on how Kenya and Ethiopia can manage their shared resources peacefully for the benefit of the two peoples especially transboundary water resources. Other nations have come together to jointly manage their shared resources for conflict prevention for example Israel and Palestine have come to an agreement over the use of the waters within their border areas despite their conflict territorial expansion aiming at establishing either a greater Israel or a greater Palestine.<sup>76</sup>

All the communities regardless of the nature of their livelihood rely on access to water and pasture on either side of the border hence a need for a proper mechanism for sharing available resources to avoid conflicts especially during the drought seasons. The mechanism that is suggested by this study is the formation of joint management riparian commission that will facilitate making of better informed and more evidence-based policy decisions for access to and use of available resources on either side of the border. It will promote environmental management; benefit sharing and sustainable use of transboundary water resources along the common border.

It is increasingly importantly to sort out new mechanisms and institutions to manage conflicts and resolve them productively in the interest of both long-term and short-term

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<sup>5</sup> Aaron T. Wolf et al Water can be a Pathway to Peace not War. CBern: lang 2000) P.1

<sup>6</sup> See <http://www.flickr.com> (*Understanding the Israel-Palestine conflict*)

economic feasibility. Therefore this study is based on the need to use available resources optimally for the benefit of all communities living at the border with a policy of mutual resource sharing focusing on conflict management.

Conflict along the common border can be properly managed by both governments coordinating in planning and investment projects related to the areas near the border.<sup>77</sup> Adequate information sharing is paramount as provided for by international law especially relating to establishment of development projects in a shared resource for example on a watercourse. This helps in avoiding conflicts.

Disputes over cross-border resources such as rivers and lakes are not new phenomena, for example in 1950s and 1960s, the animosity between Israel and her neighbours were heightened by dispute over the headwaters of the Jordan River. Attempt by Syria to divert waters from the tributaries of Jordan led to Israel attacks in 1962 and 1966 on Syria's construction sites that were meant to divert water from the river.<sup>78</sup> This study tries to see how such scenarios can be avoided in the case Ethiopia's construction of dams on River Omo which seems to be a threat to existence of Lake Turkana. The study identifies need for a joint management commission that should oversee the construction to make sure that the existence of the Lake Turkana is not put into jeopardy.

At the border area, communities share resources, for example in Moyale town, Kenyan side of the border has good schools, hospitals and banking systems which they share with their Ethiopian neighbours while Ethiopian side has good infrastructure development, electricity,

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<sup>77</sup> See Tyler R. Stephen, *Implications of Natural Resource Conflict Management* p. 3

<sup>78</sup> See Natural Resource, *Conflict and Conflict Resolutions; United States Institute of Peace* p. 7

social facilities like Bars and Restaurants and goods and services are cheap compared to Kenyan side and they also share with their Kenyan neighbours. However, there is a problem in the manner in which sharing of resources is done, for example, to access resources such as water and pastures, it requires negotiations that takes long because they involve persuading discussions between the owners of the resources and the outsiders".<sup>79</sup> This is a retrogressive way of handling vital issues in a society and thus sharing of resources need to be treated as a right of access.

It is important to note that sharing of resources along the common border must be based on a platform of trust and recognized interdependency, whilst realizing that these relationship communities should cultivate a culture of brotherhood cemented by love and good will that enables them share whatever resources that they.

Astrom defines five types of rights including the right of access, management, withdrawal, exclusion, and of alienation.<sup>80</sup> However, the last three rights do not fit properly to the pastoral life due to the fact that there is seasonal variability in availability of water and pasture and uneven distribution of the same on either side of the border. To fill this gap, Dejene proposes formation of effective institutional mechanisms for regulating the use of resources and for preventing and resolving violent conflict arising from competition over resources.<sup>81</sup> These mechanisms will remove what Scoones refers to as fussy access rights which are characterized by overlapping claims, flexibility of rights, and negotiation of access rights. Further, overlapping

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<sup>79</sup> Tesfay, Y. & Tafere, K. *Indigenous Rangeland resources and Conflict Management by the North Afar Pastoral Groups in Ethiopia* p.36

<sup>80</sup> Ostrom Elinor, *Understanding the Institution of Diversity* (Princeton, Princeton University Press, 2005) p. 35

<sup>81</sup> Aredo Dejene, *Fuzzy Access Rights in Pastoral Economic: Case Studies from Southern Ethiopia* (Oaxaca, 2004) p. 4

claims to resources, shifting assertions of rights and continuous contestation and negotiation of access rules dominate arrangements of use of resources at the border area.

There is need for strengthening partnership and collaboration among stakeholders, establishment and strengthening of peace and grazing committees at all levels with due consideration of cross border conflicts. Traditional mechanism of conflict resolutions should be supported and facilitated to enhance their efficiency. There is also a need to enhance dialogue between government and elders in the area, provide effective political leadership and engage youths in alternative productive activities. In some countries like Botswana, local communities have been given authority to use and manage the resources at their regions using their local or traditional institutional mechanisms for conflict resolutions. The Government of Botswana has made legislative changes that would allow most rural communities to participate in the decisions making process pertaining to resource utilization. This way the government has managed to control conflicts that emanated from resource use and management<sup>82</sup>. This can also be done along the Kenya-Ethiopia border to enhance conflict management.

There is also need to enhance cross-border meetings which acts as important consultative fora, strengthening of peace committees and support for enforcement of peace pacts such as the Modogashe and Garissa Declaration and the Recent Maikona Agreement that has brought to an end of long standing conflicts between Borana and Gabra communities.

Scholars such as Martin Fritsch, views transboundary collaborative (TB) activities of shared border resources as excellent basis for building trust, confidence amongst the communities on either side of the border hence peaceful co-existence. The TB collaborative

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<sup>82</sup> See *Community-Based Natural Resource Conservation and Development: The Experience of Botswana*

activities play a significant bridging role in politically, ethically and economically difficult situations.<sup>83</sup> The activities offers a platform for wider cross-border dialogue which can fill gaps in ad hoc governance bridging structures at local as well as at national level. Further TB collaborative activities encourage decentralization and good governance in remote border areas. It forms a ground for implementation of good governance practices.<sup>84</sup>

Cooperative activities along the border can helps in managing conflict as well as promoting social-economic development of the communities living on either side of the border. However such activities need to large extent support by the government such as; encourage and support to youth entrepreneurship though provision of youth enterprise funds, development of small and medium-sized enterprises mainly for women groups through women enterprise development fund and other ways in which the communities can be engaged other than grazing of animals.

For tourism purposes there is need for protection of natural and cultural property, prevention of natural and cultural risks. Stakeholders such as Governments and NGOs should help in connections between urban and rural areas to aspects such as ICT technologies. This would promote foreign as well as local investments and in changing the minds of local from rural thinking to urban and give them another self reliance jobs other than livestock farming.

Improving access to transport, information and communication networks are paramount in the area. Regional development of infrastructure should be encouraged, for example construction of Nairobi-Moyale road should be hastened by Kenyan Government to connect Kenya and Addis Ababa since Ethiopia has already done their Side, Moyale Addis Ababa. Delay in completion of

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<sup>83</sup> Fritsch Martin and Galland Pierre, *Benefits from Cross-Border Management of Natural Resources: Experiences and Lessons Learned from he SDC Balkan Transboundary Projects*, 2008 p. 15

<sup>84</sup> Ibid P. 17

the Nairobi Moyale road has delayed development between the two countries. This should also apply to common development of other infrastructure such as health, education and culture.

Water management and power supply system- management of watering points, rivers and dams should be done jointly to enhance sustainable use for all. Power supply should also be availed to all through sharing. For example Kenyan side which has no power should be able to tap the power from the Ethiopian side through a former agreement so as to develop the region as a whole and not one side.

Administrative cooperation and local communities' integration through delivery of joint actions on the labour market should be done and promotion of gender equality (including equality between women and men). In there should be an agreement on the movement of labour such that people in the area can get formal jobs on either side of the border without any discrimination. This would be effective mechanisms for conflicts management in the area.

The two countries should ratify and implement the Protocol on Prevention, combating and Eradication of Cattle Rustling in Eastern Africa to address the problem of cattle rusting.<sup>85</sup> The purpose of the protocol is to develop appropriate mechanisms for preventing and eradicating illicit cross-border activities in general and cattle rusting in particular. This will ensure negative social economic consequences are eradicated and secure people's livelihood.

Further, there need for strengthening of communication between the border administrators and security organs to increase effectiveness in cross border raids and illicit arms trafficking.

#### **2.4 Controversy Surrounding Construction of Jibe 111 Dam on River Omo**

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<sup>85</sup> See Report on *Consultative Forum on Peace and Security for Members of Parliament from Arid and Semi Arid Areas*, 2008 p. 9

### **Background Information**

The politics of water becomes highly important not only because of its scarcity but also because of its sharing across national boundaries.<sup>86</sup> Approximately 40% of the global population lives in transboundary water basins hence a need for cooperation and harmonization of policies in the utilization of water resources<sup>87</sup>. The principles of sustainable development emphasize the need for strengthening international cooperation in the use and protection of shared resources. The aspect of good neighbouriness is vital in relations to use and protection of shared resources.

The Jibe III dam is a huge hydropower generating project being built by Ethiopian Government along River Omo. Salini, an Italian construction company is the contractor which received the huge contract without competitive bidding.<sup>88</sup> There was lack of transparency in selection of the prime contractor. The no-bidding contract violates European Investment bank's (EIB's) procurement policy and also International Standard for developments of such projects

The construction of the Jibe III began in 2006 and it's expected to be complete by the end the year (2012). The finances for the project are from the Ethiopian Government, European Development Bank (EIB) though prior arrangement to fund the project has however withdrawn its funding plans and African Development Bank (ADB) are said to be considering following suit. The World Bank has rejected the request to finance the project.

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<sup>86</sup> Mylopoulos Y et al. *Hydrodiplomacy in Practice: Transboundary Water Management in Northern Greece* Vol. 10, 2008 p. 9

<sup>87</sup> Ibid. P. 6

<sup>88</sup> See [www.nazret.com](http://www.nazret.com)

This financial challenge prompted Ethiopia to shift its focus to Eastern sources and China has agreed to provide a loan of (500 million dollars) on a long term basis.<sup>89</sup> The agreement reached between Ethiopia and China will see the former offer Gibe's electro and hydro mechanical works to China. Dongfang Electric Machinery Corporation Ltd, a state owned company takes over Gibe's electro and hydro mechanical work from Salini Construction Company to handle the engineering procurement contract of the project. The Chinese loan could also see Ethiopia reject ADB's loan. Norway is also said to have agreed to support Ethiopia in this project. The Norwegian Ambassador to Ethiopia and the Ethiopian State Minister of Finance and Economic Development has signed a 400million birr hydropower agreement.<sup>90</sup>

The Jibe III is constructed along other Jibe I and Jibe II dams which allegedly failed to follow international best practices on procurement.

Jibe III dam is designed to have a height of 240 meters and will be the Africa's tallest dam and Ethiopia's biggest investment project.<sup>91</sup> The dam is expected to provide generating capacity to meet domestic demand and increase exports of electricity and make the sector a major foreign exchange earner for the country. The estimated direct benefits of the project will be 1870MW of electrical power and 6400GWh of firm energy per year.<sup>92</sup>

An environmental and social impact assessment (ESIA) of the Gibe III dam and reservoirs was carried out by Centro Elettrotecnico Sperimentale Italiano (CESI) of Italy and Mid Day International (MDI) Consulting Engineers of Ethiopia in 2006, followed by an ESIA of

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<sup>89</sup> <http://en.afrik.com/article17629.html> (Ethiopia lands Chinese loan approval for mega Gilgel Gibe III hydro-power project)

<sup>90</sup> Ibid

<sup>91</sup> Ibid

<sup>92</sup> See *Jibe III Environmental and Social Impact Assessment*, 2009 p. 3



downstream impacts by Agriconsulting and MDI in 2008. The methodology and conclusions of both studies have been criticized by other experts in dam construction and by researchers and scientists familiar with the region. The relationship between salini, the Italian construction company, and other hydropower installations in Africa has also been scrutinized by the Bankwatch network.<sup>93</sup> Kenya was not involved in the environmental and social impact assessment process yet she is a co-riparian. Further, the ESIA's did not include any discussion on the likely impact of climate change on the viability of the dam.<sup>94</sup>

If the allegations that ESIA's are wrong then the consequences will be far-reaching and will affect Kenya in several ways such as:

Physical security: due to the fact that the region is already prone to violent conflict, any further pressure on natural resources is likely to increase inter-communal tension and exacerbate conflicts. This is because the communities exclusively depend on natural resources such as water from the lake for domestic use, watering point for livestock, fishing and small scale irrigation. Therefore, any reduction in the quality and quantity of water in the lake may increase conflicts.

National Heritage: the Lake Turkana National Park and Lower Omo Valley are both world Heritage sites subjects to the protection of the world Heritage Convention, to which both Kenya and Ethiopia are signatories.<sup>95</sup> The National Museums of Kenya and the Kenya Wildlife Services through vision 2030 have plans to develop Sibiloi National Park.<sup>96</sup>

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<sup>93</sup> The Gilgel Gibe Affairs : An Anaiysis of the Gilgel Gibe Hydroelectric Projects in Ethiopia; CRBM/CEE Bankwatch Network, 2008

<sup>94</sup> See *Jibe III Environmental and Social Impact Assessment*, March 2009 p. 3

<sup>95</sup> See Article 6 of the World Heritage Conventlon

<sup>96</sup> See Kenya's Vision 2030 p.30

**Cultural Identity:** Communities living in the area surrounding the lake such as Turkana, Gabra, Rendille, Samburu, El molo and Dassenech are proud of being associated with the Lake and hold its value close to their hearts. The lake supports over 300,000 people many of whom have no viable economic alternatives. It is their cultural heritage and any interference with River Omo threatens the existence of the cultural heritage for those communities.

**Bio-Diversity:** If completed the Dam would severely curtail the lake's inflow, reduce water levels, increase salinity, destroy riparian rich animal life, forests, affect fisheries and push the lake's vulnerable ecosystem to the brink of collapse.

**Seismic Activity:** a report submitted to the African Development Bank concludes that, the risk of catastrophic failure of the Gibe III dam is not insignificant.<sup>97</sup> This is because of the volcanic ash which has been a problem at other civil engineering activities in the region. The African Resources working group notes two earthquakes of 5.0 magnitude within 63km and 98km respectively of the dam site in 1989 and 1999.

**Lake Receding:** Due to climatic change, high rate of evaporation has made the lake to decline to alarming levels. Consequently the waters are becoming more alkaline to the level of undrinkable. Gibe III would contribute additional stress and lower the economic output from the lake and the Omo river basin.

On the Ethiopian side the negative effects will be experienced;

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<sup>97</sup> Anthony Mitchell, Gilgel Gibe III Economic, Technical and Engineering Feasibility Desk Study Report, April 2009 p. 2

Displacement of people: despite local people living mostly on the plateau, it is envisaged that around 400 households will be displaced. The dam could also modify flooding trends, which the people depend on for survival, and trigger wars.

Loss of Ecosystem: The Omo National Park is one of the areas with the largest biodiversity in Africa and it is populated by more than fifteen different tribal groups still living through traditional means. In 1980, the lower Omo Valley was declared a World Heritage site by UNESCO<sup>98</sup> because of “*The discovery of many fossils there, especially Homo gracilis, has been of fundamental importance in the study of human evolution*”. All these will be lost through flooding.

Loss of Agricultural land and forests: Five hundred hectares of agricultural land will be flooded as well as 1,532 ha of riverine forest and 25,506 ha of deciduous woodland. This is because a 150km-long reservoir will be created with the Gojeb River emptying into it, flooding the whole canyon from the dam upstream to the Gibe river. The reservoir will have a surface area of about 34,150km<sup>2</sup>.

Meanwhile, the enhancement of living standards of various populations downstream the Omo river to lake Turkana stemming from the many advantages of the development of electricity, many argue, would curb the unpredictability of peace in the region. But others have also argued that the dam could modify flooding trends, which the people depend on for survival, and trigger wars.

The Omo River is an international (trans-boundary) river that begins at the confluence of the Gibe and Gojeb rivers and discharges into Lake Turkana in Kenya. In this view, Kenya need

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<sup>98</sup> <http://www.crbm.org> Report on Gilgel Gibe Hydroelectrical Projects “The Gil Gibe Affairs”

to take up measures that will ensure all international standards in constructions of dams are adhered to by Ethiopian government as a core riparian. This will help in eliminating negative consequences that would come with the construction of the Jibe III.

Since Kenya was not involved in the environmental social impact assessment, it would be prudent for her to push for a chance for a joint ESIA to do a new environmental assessment and in this case a credible research team be formed that will have interests of both governments at hand. The team should evaluate the cumulative impacts of all hydropower installations on the

Omo River not just Gibe III in reference to what is indicated below.

Scheme	Installation Capacity	Firm Energy	Status
Gibe I	184MW	722 GWh/Year	In Operation
Gibe II	420MW	1635GWh/Year	Under Construction
Gibe III	1810MW	6400GWh/Year	Under Construction
Gibe IV	2000MW	8000GWh/Year	Planning stage

Source: Gibe III Environmental and Social Management Plan EEPKO, January 2009

To mitigate the foreseen repercussions of the dam, the relevant Kenyan authorities has proposed a joint riparian commission to monitor the construction of a hydro-power dam on River Omo, a proposal that is yet to be accepted by Ethiopian Government. The commission is vital because it will enhance the implementation of minimum flow of water in the river and also curb diversion of water for other purposes. As such, the lake will have been protected from extinction

and the lives of more than 300,000 Kenyan people in Turkana North and Central will have been saved.

There should be an agreement of the amount of water that should be left to flow downstream considering climatic changes. Without getting into the complex relationships between minimum flow level and the ecosystem, the simple approach to set minimum flow level would be to identify the lowest flow in the Omo River using historical flow records and allowing that rate during dry seasons. The impact from unnaturally high flow can be reduced by diverting the excess flow to irrigation fields or other water supply systems.

Now that new interested donors have emerged to support the construction of the Jibe three, the big question we need to ask ourselves as Kenyans is; what is the next step if Ethiopia refuses our proposal to jointly manage the construction and use of the dam? Should we go to the UN Security Council or The Hague or to the AU Security Council and raise our concerns? We need to think of a legal measure to be undertaken without any delay so as to ensure our interests are taken into consideration as Ethiopia tries to develop through self sufficiency in power generation as well as through foreign exchanged earned from exports of power.

If this option fails to work, should Kenya go to war with Ethiopia? As far as national interests are concerned a state can go to war with another to safeguard its national interests. Some states have threatened to do so for example Egypt with the use of waters of River Nile. "the Minister for Water Resources and Irrigation stated that "Egypt reserves the right to take whatever course it sees suitable to safeguard its share" Egypt's share of the Nile's water is a historic right that Egypt has defended throughout its history," Britain and Egypt signed an agreement in 1929 over the use of waters of river Nile that inhibits all other riparian states to use

the same resource.<sup>99</sup> Egypt is preparing to respond to Ethiopia as well as to the signatories of new Nile deal that was signed in Kampala, Uganda by four riparian states. Kenya was represented by her Ambassador to Uganda but the Minister for water later signed the agreement.

### **Issues over the use of waters of river Dawa**

River Dawa rises from the Ethiopian Highlands and flows southwards until it reaches Kenya-Ethiopia border where it forms an international boundary between the two countries.<sup>100</sup> The River has been a source of conflict between the riparian communities emanating from small scale irrigations carried out by the upper riparian communities on either side of the border leading to shortage of water on the lower riparian communities. The 31<sup>st</sup> Kenya-Ethiopia Joint Ministerial Commission session held in July 1979 in Addis Ababa, identified cooperation in the management of the water resources of the lake Turkana and River Dawa. This commission was never implemented. Further the Memorandum of Understanding between the two countries signed on 31<sup>st</sup> January 1979 proposed among other steps to 3000 hectares of land along river Dawa under irrigation was not also implemented. Each side of the border, small irrigation schemes have been established regardless of the number of arches and this has translated to overuse of the water at the upper levels and lack of the same resource to lower riparian.

These two frameworks of agreement for the use of transboundary resources are already and renewing them is inappropriate because they may not apply in this contemporary society due to changes that have come about due to globalization and technological advancement. Thus there is a need for establishment of a new framework for joint management of transboundary resources

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<sup>99</sup> <http://en.afrik.com/article17629.html> "Ethiopian led river Nile agreement signed without Egypt and Sudan"

<sup>100</sup> Amare Guire, *Building Bridges in the Utilization of Transboundary Water Resources Under the Auspice of IGAD*, March, 2008

that will regulate the use of resources in an equitable and transparent manner for the benefit of the two peoples.

### **Conclusions**

The study established that most of the scholars share similar views that the Northern part of Kenya and Southern Ethiopia is an area that is in dire need of social economic developments which have been hampered by conflicts. It has been noted that the region is marginalized from the central governments and that naturally it is disadvantaged in terms of weather conditions. The area experiences high very high temperatures and receives low rainfall ranging from slightly higher or less than 250mm per year which means cannot support crop farming other than pastoral farming. However, the scholars acknowledge that the area has resources that if properly utilized can help improve the living standards of the people and general economic development. Such resources include Valuable minerals, game reserves, livestock, lake and rivers. Further, the scholars suggest introduction of other economic activities as supplements to pastoral farming which include irrigation and flower farming. The areas is also said to have prospect of gas especially on Kenyan side and therefore the Government should invest in exploration of the gas so as to help in developing the region.

The scholars have elaborated clearly the causes of conflicts in the region and have suggested several ways in which conflicts can be managed in the area if they are implemented. Such possible solutions include engaging the youth with productive activities, strengthening of traditional mechanisms of conflict management and securing the border to curb issues of raids and cattle rustling. Most importantly, the scholars have emphasized the importance of education in the area which will assist people in abandoning their cultural practices that has been identified

as a major cause of conflicts. Finally, the scholars are in agreement that conflict in the area has been perpetuated by political instability in the neighbouring countries such as Somalia and Sudan which promote proliferation of small arms and light weapons on either side of the border and have therefore suggested that more efforts be put in maintaining peace and security in the neighbourhood to promote cross border conflict management.



## **Chapter Three**

# **Successful Case Studies on Cross-Border Resource Management**

### **3.1 Introduction**

This chapter identifies successful case studies in transboundary water resources management both in bilateral and multilateral cooperation. It provides a brief overview of case studies of different border areas of the world and outlines various challenges that hamper cross-border cooperation in transboundary resource management and finally gives a general conclusion.

The case studies discussed are aimed at being models for conflict management in the case of Kenya/Ethiopia which is in conflict over the use of waters of River Omo which is the main source of water for Lake Turkana. Kenya and Ethiopia share Lake Turkana but the larger part of it is in Kenya. Communities living around the lake on either side of the border have been having conflicts over issues such as fishing and watering of animals and small scale irrigation. The development of Jibe 111 dam on River Omo in Ethiopia is aimed at generation of power but Kenyans depending on the lake feel that their life is threatened. River Dawa along the same border is also in conflict as farmers on either side compete for its waters for small scale irrigations. Therefore, this topic explores ways in which each state can use resources within its territory without injuring the rights of the co-riparian to use of the same resources.

## 3.2 Case Studies

### Bilateral cooperation

#### a) The Mahakali River Basin

The Mahakali River Basin is a transboundary river bordering India and Nepal. The two countries have formed a Mahakali Treaty<sup>101</sup> that directs the management and sustainable use of the waters from the River. The Treaty was formed in February 1996 and came into force in June 1997 and is valid for 75 years. Mahakali River Commission is entrusted for implementation of the treaty.

The success of the sustainable use and management of the waters of the river as well as environmental conservation has been through the approval by the treaty of the principles of equitable and reasonable utilization, equitable distribution of benefits and an obligation not to cause harm (Art. 9 (1))<sup>102</sup>. This means each party has an obligation maintain a natural flow of the river. Further the treaty has allowed each part to use not less than 5% of the average annual flow and article 8 allows each party to have an independently plan and develop any project on the tributaries of the river as long as such use does not cause harm or adverse effect on the rights of the other party on the use of the waters.<sup>103</sup> For complete conflict resolutions between the two parties, the Permanent Court of Arbitration has been incorporated in the treaty<sup>104</sup>

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<sup>101</sup> Rahaman M. Muhammad, *Principles of Transboundary Water Resources Management and Ganges Treaties: An Analysis* Vol. 25, 2009. P. 164

<sup>102</sup> Ibid P.165

<sup>103</sup> See *The Treaty of Mahakali Article 8*

<sup>104</sup> Ibid, Article 11 (3)

#### b) Bangladesh-India Treaty

India has also signed a bilateral treaty with Bangladesh (1996) and Water Sharing Agreement in 1977.<sup>105</sup> This was after Bangladesh complained over shortage of water downstream and this treaty brought in proper use of the water between the two parties.

This bilateral cooperation between India and Nepal can be a role model for Kenya and Ethiopia over the use of waters of River Omo as well as River Dawa. The two countries should negotiate and form such a treaty that will enhance proper utilization of the shared resources as well as their protection and management for the development of the whole region with one side developing at the expense of the other.

The Mahakali Treaty has also incorporated the Permanent Court of Arbitration such that if the two parties are in such a situation that they cannot resolve their conflicts then the matter can be taken to the International Tribunal. This means all avenues for conflict resolutions have been evaluated to make sure that the river is protected and at the same time projects are undertaken on it for development for socio-economic on either side.

#### c) The United States-Mexico Border Cooperation

To resolve conflicts, the two countries have used approaches where government units, and Non Governmental organizations work in bilateral manner to advance solutions to regional water management issues. The International Boundary and Water Commission/La Comisión Internacional de Límites Aguas is a bilateral organization composed of two sections that reside

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<sup>105</sup> Rahaman M. Muhammad, *The Ganges Water Conflict: A Comparative Analysis of 1977 Agreement and 1966 Treaty*, 2006 p. 1

in the respective foreign ministries of Mexico and the U.S. (IBWC 2005) <sup>106</sup>. Implementation frameworks have been developed to enhance efficiency and effective implementation of different policies. Further there is Border Environmental Cooperation Commission ( BECC) which was formed with the intent to help preserve, protect, and enhance the environment of the border region in order to advance the well being of the two peoples.<sup>107</sup>

The two countries have binational team of technical experts in different areas of water management such as water quantity and quality, water uses such as irrigation, domestic, and industrial. They also have expertise in wastewater management. All these have helped in managing conflict along the common border and mainly in urban areas of the twin cities that are spatially contiguous to each other on the border

#### d) Canada and United States Smart Border Accord

The Border between Canada and United States, in 2001, the two countries signed an a “Smart Border” accord which featured action plan with thirty (30) points designed to secure the cross-border flow of goods and people, protect infrastructure and improve information sharing. This proved to be successful as trade between the two countries improved and issues of insecurity at the border reduced tremendously.

### Multilateral Cooperation

#### a) The Balkan Paninsula Project

In the Balkan Peninsula, six countries (Albania, Montenegro, Bosnia Herzegovina, Croatia, Bulgaria and Serbia) came together and launched three (3) transboundary projects focused on

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<sup>106</sup> See *Transboundary water resource issues on the US-Mexico border: Challenges and Opportunities in the 21<sup>st</sup> Century*

<sup>107</sup> Ibid

oint cross-border management of shared natural resources to promote dialogue and peace-building among the states. The projects were mainly on management of; Skadar Lake shared between Albania and Montenegro, River Neretva- shared between Bosnia Hergovina and Croatia and Western part of Stara Planina Mountains- shared between Bulgaria and Serbia<sup>108</sup>

The projects contributed to decentralization processes and to the empowerment of local communities and civil society by building cross-border linkages between them. They raised environmental awareness on key issues and values and benefits of a joint sustainable management of their territory.

The cooperative activities contributed to reinforced protection of biodiversity and natural resources.

The projects were established when the countries were still in an unstable post-war situation but they proved to be very successful in promoting constructive dialogue and collaborative activities that have been implemented and sustainable structures have also been established.

#### b) The Mekong River Basin

The Mekong River Basin is shared by six countries, China, Laos Cambodia, Thailand, Myanma, and Vietnam. The countries have formed a Commission for Cooperation-the Mekong River Commission (MRC) that has enabled all the countries to make use of the water for economic development without injuring the use of the same resource by the neighbour. The role of the Commission is to coordinate and promote cooperate in all fields of sustainable development utilization of the water and related resources of the basin. The Commission uses strategic

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<sup>108</sup> Fritch Martin and Galland Pierre, *Benefit from Cross-Border management of Natural Resources: Experiences and Lessons Learned from the SDC Balkan Transboundary Projects*, 2008 p. 3

planning approach to guide development activities along the river. There is a series of programmed such as Water Utilization Programme (WUP), Basin Development Plan (BDP) and Environmental Programme (EP).<sup>109</sup> The programmes have enabled that riparian states utilize the water flowing within their territory optimally without injuring the use of the same resource by the neighbour. This cooperative spirit has helped the member states in preventing and turning the potential conflicts to a mutually beneficial cooperative and sustainable development of the river basin.

The commission has been successful in implementing its mandate through the adoption of water utilization rules, procedures for notification, prior consultation and agreements before any development is undertaken by any member state. A commission of the same nature can also be effective on use and management of the resources along the common border. It can promote development that is sustainable and holistic in nature. It will ensure environmental protection and maintenance of ecological balance.

c) The case Asal Sea

This was previously managed by the Soviet Union but after the breakdown of the Soviet Union, it become a transboundary resource between five countries; Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. The five riparian countries have managed to form an agreement that enhance information exchange, joint research and adherence to water rules and

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<sup>109</sup> Gupta D. Ashim *Challenges and Opportunities for Integrated Water Resources Management in Mekong River Basin*. P 224

regulations.<sup>110</sup> They have also established an interstate commission that manages water allocations and use and defines water use limits for each state.<sup>111</sup>

#### d) The Komati River Commission

The Komati River is a transboundary river shared between three countries; South Africa, Swaziland and Mozambique.<sup>112</sup> The countries formed a Komati River Commission that have helped to in the overall socio-economic development of the riparian countries through establishment of joint development projects that have brought about commercial farming through irrigation, hydropower development and development of infrastructures.<sup>113</sup> Through this projects employment opportunities have been created and people living standards improved<sup>114</sup>. These have tremendously reduced conflict among the communities living near the shared water resource. The local communities play an active role up to the highest level of management of the water from the river.<sup>115</sup> An institutional capacity has been created among the communities which have enabled them to deal with successfully with issues such as climate change, changes world in terms of trade and price fluctuations.

#### d) The Danube River Basin

It is the largest river in Europe with an area of 802,463square kilometers and covers the greatest number of countries in the world with a total of eighteen states.<sup>116</sup> The river is the largest Black

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<sup>110</sup>See Wolf T. Aaron and Newton T. Joshua *Case Study of Transboundary Dispute Resolution: Aral Sea*

<sup>111</sup> Ibid

<sup>112</sup> Okonkwo Adora et al, *Application of Integrated Water Resources Management Approach to the Management of Shared Komati River Basin*, 2008 p.2

<sup>113</sup> Ibid P. 6

<sup>114</sup> Ibid

<sup>115</sup> Earle A. and Malzbendereds D. *Stakeholder participation in Transboundary Water Management- Selected Case Studies*, (Cape Town, African Centre for Water Research, 2008 ) p.6

<sup>116</sup> See *Danube River Basin Commission*

Sea tributary.<sup>117</sup> Management of the river started with formation of the Danube River Commission 1994 and later through the International Commission for the protection of the Danube River Basin (ICPDR) which came into force in 1998<sup>118</sup>.

ICPDR was formed to promote and coordinate sustainable and equitable water management including conservation, improvement and rational use of waters for the benefit of all riparian countries.<sup>119</sup> It plays a vital role in raising environmental awareness and implementation of projects of nature protection, wetland rehabilitation, ecological farming and urban sanitation<sup>120</sup>. The ICPDR promotes policy agreements and setting out joint priorities and strategies to improve the basin. The commission has helped in the implementation of the EU Water Framework Directive (WFD), which obliges EU member states and accession countries to use a river basin approach for managing their water resources. The Commission received an International Theiss River Prize in Water Management in the Danube River Basin.<sup>121</sup> The prize identifies the world's best practices in water management, preservation and restoration.

e) Trans-frontier Parks and Conservation Areas in SADC region

Regional Cooperation are already playing a great role in cross-border resource sharing and management. For example Southern African Development Community (SADC) has introduced Trans-frontier Parks and Trans-frontier Conservation Areas (TFCAs) which ensures sustainable resource use, conservation and development of the available resources.<sup>122</sup> It has also helped to

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<sup>117</sup> Ibid

<sup>118</sup> See *International Commission for the protection of the Danube River Basin* (ICPDR) p. 1

<sup>119</sup> Ibid

<sup>120</sup> Ibid p. 2

<sup>121</sup> <http://72.26.206.15/gef> - *Strengthening the Implementation Capacities for Nutrient Reduction and Transboundary Cooperation in the Danube River Basin*

<sup>122</sup> [http://www.sdc.admin.ch/de/Dossiers/Southern Africa/Natural Resources](http://www.sdc.admin.ch/de/Dossiers/Southern%20Africa/Natural%20Resources)



alleviate poverty among the communities living at the border areas. TFCAs have been successful in areas such as Cross-border River Basin Management, Food Security achieved through seed security, policy harmonization, and disaster preparedness and information dissemination and through tourism management by local communities.

f) **Brazil Cross Border Management Committees**

In Brazil for example the country have formed cross border management committees which facilities use of shared resources between Brazil and its neighbours. This has promoted proper use of the resources such as rivers where the country have managed to have access to quality water and control of pollution of rivers from its neighbours.<sup>123</sup>

Conclusion

**3.3 Challenges for Cross Border Cooperation in Use and Management of Shared**

**Resources**

The fact that different nations are at different stages of development, the agendas for development are also varied and therefore cooperation become complex. Some countries may be struggling with basic infrastructure while others have progressed to a need of greater development aspects.<sup>124</sup> Kenya and Ethiopia may be at the same levels economic development but in terms of infrastructures Ethiopia is ahead and therefore cooperation in infrastructure development is difficult.

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<sup>123</sup> See Mushfig A. and Mobarak M. *Inter-jurisdiction Coordination in the Management of Natural Resources: Evidence from Water Basin Committees in Brazil*. P.3

<sup>124</sup> Jansky L. and Juha I. Uitto (eds) *Enhancing Participation and Governance in Water Resources Management* (Tokyo, United Nations University Press, 2005) p. 13

Different states sharing a given resource have different laws that govern them and therefore a transboundary resource is subjects to those different laws<sup>125</sup> bringing about legal constraints in managing such a resource.

Allocation formula for Water Use is another stumbling block for cooperation in tranboundary resources<sup>126</sup> because it is hard to determine which volume say for water should be given to which state and the reasons to support such an amount. This becomes so complex where a resource is shared by more than two states.

Lack of cooperation among riparian states in harmonization of laws that governs a given resource which is pivotal requirements for a shared resource to managed under an international region say a commission. This hampers efforts to address numerous challenges such as pollution from industrial facilities and mines, urban wastewater, agriculture, illegal wastewater discharge and waste disposal, groundwater pollution and water scarcity.

These challenges can only be tackled in joint efforts that include all riparian countries and promote, among other things, the protection of water quality, the sustainability of water quantity, navigation, hydropower generation, flood control and conservation of natural habitats and biodiversity by implementing policies contained joint agreements.<sup>127</sup> Despite these challenges countries of the world have managed to maintain their cooperation in use and management of shared resources as challenges are dealt with according as they come.

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<sup>125</sup> See Lynne Lewis *Complexities with Tranboundary Water Resource Management: Progress and Stumbling Blocks* p. 1

<sup>126</sup> Ibid p.2

<sup>127</sup> See report on International workshop on "Transboundary Water Resources Management in South-Eastern Europe" Sarajevo, 18-20 May 2009

## **Conclusions**

Conflict between jurisdictions over the use of cross-border resources is not a new phenomenon; many countries of the world have experienced conflict across their border over the use and management of the available resources but the most encouraging thing is that many countries have managed to cooperate either bilaterally or multilaterally to enhance optimum utilization of the resources to meet the needs of the people putting in mind future generations.

This chapter should be an eye opener for Kenya and Ethiopia in that, the case studies discussed can be models for the border between the two countries. Kenya and Ethiopia should sign a bilateral agreement on shared resources with an aim of devoting all possible potentials to bring about economic development and extricate the region from a vicious cycle of poverty. This will also have a far-reaching effect in managing conflict that emanates from competition of water and pastures, business rivalry and issues of developments such as hydro power generations.

Other countries in other parts of the world have succeeded in their economic developments through cross border cooperation which allows huge trade between countries, free movement of people, goods and services. This is also possible in the case of Kenya and Ethiopia. To deal with challenges mentioned, powerful instruments of cooperation and consultations have been put in place as mitigation tools for handling transboundary challenges.

## Chapter Four

# Principles and Conventions that Guide Use and Management of Transboundary Water Resources

### 4.1 Introduction

Transboundary water resources continue to be a source of major contention between riparian states.<sup>128</sup> However, other than resulting to conflicts or war there are better ways in which states can work together towards a common goals; that is applying different principles and conventions that guide the use and management of transboundary water resources<sup>129</sup>.

This chapter therefore will discuss different principles of transboundary water resource management that are recognized by the international convention, judicial decisions and international treaties. It will evaluate the effectiveness of the UN Watercourse Convention and regional organization like UNECE water Convention. It will finally assess how these international water principles and conventions can be reference areas in addressing the controversy over Ethiopia's construction of Jibe III dam and other related dams along River Omo. They can also help in resolving conflicts over the use of waters of River Dawa. The chapter has also cited specific regions/area globally where these principles have been applied and succeeded.

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<sup>128</sup> Brels Sabine et al, *Transboundary water resources Management : The Role of International Watercourse Agreement in Implementation of the Conservation of Biological Diversity* (Montreal, Secretariat of the CBD, 2008) p.19

<sup>129</sup> Eleftheriadou E., Mylopoulos Y. *Conflict Resolution in Transboundary Waters: Incorporating Water Quality in Negotiations* , 2008 p.3

## **4.2 The International Water Principles**

These principles include: the theory of limited territorial sovereignty; the principle of equitable and reasonable utilization; an obligation not to cause significant harm; the principles of cooperation, information exchange, notification and consultation; and the peaceful settlement of disputes. They are the basis of the 1966 Helsinki Rules on the Uses of the Waters of International Rivers (commonly known as Helsinki Rules) and the 1997 UN Convention on Non-Navigational Uses of International Watercourses (commonly known as the UN Watercourses Convention)

### **a) The Theory of Limited Territorial Sovereignty**

The theory is based on the assumption that every state is free to use shared rivers flowing through its territory as long as such utilization does not prejudice the rights and interests of the co-riparian. In this case, sovereignty over shared water is relative and qualified. The co-riparians have reciprocal rights and duties in the utilization of the waters of their international watercourse and each is entitled to an equitable share of its benefits. This theory is also known as the 'theory of sovereign equality and territorial integrity'.

The benefit of the application of this theory is that it simultaneously recognizes the rights of both upstream and downstream countries because it guarantees the right of reasonable use by the upstream country in the framework of equitable use by all interested parties. Principles of equitable and reasonable utilization and an obligation not to cause significant harm are part of the theory of limited territorial sovereignty. The theory has been adopted by various treaties across the world such as; the 1995 Agreement on the cooperation for the sustainable

development of the Mekong River basin (Articles 4–7),<sup>130</sup> the 1995 SADC protocol on shared watercourse systems (Article 2) and the 2002 framework agreement on the Sava River basin (Articles 7–9).

**b) Principle of Equitable and Reasonable Utilization**

This is a use-oriented principle, a sub-set of the theory of limited territorial sovereignty. It entitles each riparian state to a reasonable and equitable share of water resources for beneficial uses within its own territory. However, equitable and reasonable utilization does not mean an equal share of water it rests on a foundation of shared sovereignty and equality of rights. In this case States negotiate and agree on how much each should have for use and which amount should be left to flow downstream for the lower riparian use. This principle have been applied in many agreements over shared transboundary water resources for example; the 1995 SADC Protocol on Shared Watercourse Systems (Article 2), the 2002 Sava River Basin Agreement (Articles 2, 9) and the 1995 Mekong Agreement (Articles 3, 7, 8).

To ensure equitable and reasonable utilizations of water resources each riparian state should have certain amount of water allocated to its use. While applying this principle, the following should be considered in determining the amount to be allocated to each state; geography of the basin, the hydrology of the basin, the population dependent on the waters, economic and social

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<sup>130</sup> See the 1995 *Agreement on the cooperation for the sustainable development of the Mekong River basin* (Articles 4–7)

needs, the existing utilization of waters, potential needs in the future, climatic and ecological factors of a natural character and availability of other resources, etc.<sup>131</sup>

This principle entails a balance of interests that accommodates the needs and uses of each riparian state. It is the most appropriate to most of the riparian state because it is an established principle of international water law and has substantial support in state practice, judicial decisions and international codifications.

**c) An Obligation Not to Cause Significant Harm**

This principle is also a part of the theory of limited territorial sovereignty. According to this principle, no states in transboundary river basin are allowed to use the watercourses in their territory in such a way that would cause significant harm to other basin states or to the environment, including harm to human health or safety, to the use of the waters for beneficial purposes or to the living organisms of the watercourse systems. The principle is widely recognized by international water and environmental law. However, the applicability of it remains questionable in that it has not defined words such as significant and harm which are vital in its application. It is not known to what extent in use one would cause significant harm since it is defined. Nevertheless, the principle is incorporated in all modern international environmental and water treaties, conventions, agreements and declarations. It is now considered as part of the customary international law.

**d) Principles of Notification, Consultation and Negotiation**

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<sup>131</sup> Brel s Sabine et al, Transboundary water resources Management : The Role of International Watercourse Agreement in Implementation of the Conservation of Biological Diversity (Montreal, Secretariat of the CBD, 2008) p.19

In this principle every riparian state in an international watercourse is entitled to prior notice, consultation and negotiation in cases where the proposed use by another riparian of a shared watercourse may cause serious harm to its rights or interest. In essence it calls for sharing of information of the intended project that a given state intends to undertake in the shared watercourse. This means that states must consult the co-riparian before starting any project on the shared water resources. These principles are generally accepted by international legal documents. However, naturally, most upstream countries often oppose this principle.

During the negotiation process of the 1997 UN Watercourses Convention these principles, which are included in Articles 11 to 18, were opposed by only three upstream riparian countries: Ethiopia (Nile Basin), Rwanda (Nile Basin) and Turkey (Tigris-Euphrates Basin).

This is may be the reason why Ethiopian did not consult Kenya before starting to construct the Jibe III dam along River Omo. However the principles have been adopted by the following agreement; the 1960 Indus Waters Treaty (Articles VI–VIII), reference, the ILA’s 1982 Montreal rules on water pollution in an international drainage basin (Article 5), the 1995 SADC protocol on shared watercourse systems (paragraphs 4 and 5 of Article 2, Article 5), the 1995 Mekong River basin agreement (Articles 24 and 30), the 2002 framework agreement of the Sava River basin (Articles 3 and 4), the 1998 Danube River Protection Convention (Articles 11 and 12)<sup>132</sup>

**e) Peaceful Settlement of Disputes**

This principle advocates that all states in an international watercourse should seek a settlement of the disputes by peaceful means in case states concerned cannot reach agreement by negotiation. This principle has been endorsed by most modern international conventions,

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<sup>132</sup> See *The Danube River Protection Convention*, Art. 11 & 12 p. 9



agreements and treaties, e.g. the 1966 Helsinki Rules (Article XXVII) and 1997 UN Watercourses Convention (Paragraph 1, Article 33). It has also been incorporated in major treaties in recent years, e.g. the 1960 Indus Waters Treaty (Article IX, Annexure F and Annexure G), the 1995 SADC protocol on shared watercourse systems (Article 7), the 1995 Mekong River basin agreement (Articles 34 and 35), and the 2002 framework agreement of the Sava River basin (Articles 22–24).

#### **4.3 The 1997 UN Convention on Non- Navigational Uses of International Watercourses (commonly known as the UN Watercourses Convention)**

In its preamble it highlights the importance of cooperation and good neighbouriness for the utilization, development, conservation, management and protection of international watercourses. It requires states to cooperate on the basis of sovereign equality, mutual benefit and good faith in order to attain optimal utilization and adequate protection of international water course.<sup>133</sup> It further elaborate clearly the Helsinki Rules (principles) such as equitable and reasonable utilization of international watercourses, obligation not to cause harm and peaceful settlement of disputes<sup>134</sup> Therefore it has provided a framework that can be used to generate bilateral and multilateral agreements on management of transboundary waters.<sup>135</sup> Whenever states have conflicts over shared resources, then they can refer to it in addressing the conflict.

#### **4.4 The Convention on the Protection and Use of Transboundary Watercourses and International Lakes (UNECE watercourse Convention)**

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<sup>133</sup> United Nations Convention on the Law of Non-Navigational Watercourses, 1997 article 8

<sup>134</sup> Ibid articles 5,7 and 33

<sup>135</sup> Dr. Woldemichael T. *Debay Climate Change and Transboundary Water Resources Water Resource Conflict in Africa* ( Institute for Security Studies, 2009) p. 25

The Convention was adopted in 1992 among states that are members of the UN Economic Commission for Europe and became effective four years later. Ref; It is emphasis cooperation among the riparian states and goes further to provide detailed rules and mechanisms in which such cooperation should realized.<sup>136</sup> It requires states on the basis of equality and reciprocity to enter into a bilateral or multilateral agreement in order to define their mutual relations as far as sustainable use and management of shared resources is concerned. Kenya is a party to the convention but Ethiopia is not.

#### **4.5 The Ramsar Convention**

The Convention was developed and adopted in 1971 it became effective in 1975. It has adopted significant guiding tools dealing specifically with interstate cooperation in managing transboundary wetlands. For example handbook 17 on international cooperation guide parties in identifying shared wetlands and cooperating with each other in order to effectively manage wetlands in an integrated system.<sup>137</sup> It further emphasizes formation of joint mechanisms and commissions for cooperation<sup>138</sup> to enhance wise use of water lands and their resources for sustainable development.

#### **4.6 The Convention on Biological Diversity**

The convention entered into force in 1993 with a mission to conserve and sustainably use biological diversity.<sup>139</sup> It calls for fair and equitable sharing of the benefits arising from the utilization of biodiversity, for this to be achieved, contracting states or parties to the convention

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<sup>136</sup> See UNECE Water Convention article 9

<sup>137</sup> Halls Sandra and Peck Dwight (Eds) *Ramsar handbooks for the wise use of wetlands, 3rd edition*, vol. 17. (Gland, Ramsar Convention Secretariat, 2007) P. 9

<sup>138</sup> *Ibid* p.12

must cooperate either directly or through competent international organizations especially in respect to areas beyond national jurisdiction.<sup>140</sup>

### **Applicability of the Principles in the Case of Kenya-Ethiopia Controversy over Use of River Omo**

During the negotiation process of the 1997 UN Watercourses Convention these principles, which are included in Articles 11 to 18, were opposed by only three upstream riparian countries: Ethiopia (Nile Basin), Rwanda (Nile Basin) and Turkey (Tigris-Euphrates Basin).<sup>141</sup> Since Ethiopia opposed the principles meaning that, she is not obliged to obey the principle despite being a member of United Nations Organization. However, the two countries can negotiate on the use of the equitable use of waters of River Omo and sign an agreement just as she has done with the co-riparian of River Nile. The use of River Nile is no difference to that of River Omo, all is all about dam construction and therefore since Ethiopia rejected the principles then it may be had for them to be applied in resolving the wrangles between the two countries

Further the UN Watercourse convention is yet to enter into force, owing to non-ratification by critical numbers of states and therefore, Kenya cannot institute legal suit against Ethiopia in reference to the convention. How then shall the conflict be resolved?

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<sup>139</sup> See Convention on Biological Conservation (CBD) Article 5

<sup>140</sup> Ibid

<sup>141</sup> Brels Sabine et al, Transboundary water resources Management : The Role of International Watercourse Agreement in Implementation of the Conservation of Biological Diversity (Montreal, Secretariat of the CBD, 2008) p.30

In reference to Ramsar Convention, Kenya is a party to it but Ethiopia is not a party to it. Kenya has a right to institute a legal suit in the convention against an aggressor and ask for protection.

Referring to the Convention of Biological Diversity (CBD), Kenya and Ethiopia are party to it and referring to the adoption of decision IX/19 by the ninth meeting of the conference of the parties to the CBD in Bonn, Germany in may 2008 urged parties to strengthen international cooperation regarding the allocation and management of water including ratification and implementing international watercourse agreement as a means to implement the provisions of the CBD.<sup>142</sup> With this decision, Kenya has a right to institute legal suit against Ethiopia for failure to accept formation a joint management riparian commission proposed by Kenya in order to sustainably use and manage the River Omo.

Despite that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, they also have a responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.<sup>143</sup> It is on this basis that Ethiopia has a responsibility of conserving Lake Turkana and the surrounding biodiversity. This is by proper utilization of the waters within its borders

All conventions require international cooperation as a major requisite for advancing their respective interlinked objectives on the equitable and sustainable use and protection of

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<sup>142</sup> See *Ninth Conference of the Parties to the Convention on Biological Diversity, Agenda 4.13, Bonn, 2008*

<sup>143</sup> See *Convention on Biological Diversity Article 5*

international watercourses and biodiversity. Therefore, cooperation between riparian states should be application of the general duty to cooperate under article 5 of the CBD.<sup>144</sup> As such Kenya and Ethiopia should understand that cooperation and sustainable use of River Omo is not an end by itself but regarded as best means to sustain economic and social livelihood for equitable benefit for all.

### **Conclusions**

The Principles and Conventions has increased in use and importance vastly over the twentieth century due to increase in armed conflicts, global trade, environmental deterioration on a world wide scale and awareness of human rights violations among other global issues. States has an obligation to enact international agreements and conventions (jus inter gentes) in to their national laws put upon one another to behave consistently and to honor their obligations. Through this agreements are maintained without deviations or violations and conflicts eliminated.

The principles and conventions give an insight on what or where to result to incase a given states is aggrieved by another. Most importantly, they explain how states should utilize shared resources within their territories without causing harm to the co-riparian. If Kenya and Ethiopia would apply these principles especially the one of not causing harm to another state, then conflicts over the use and management of waters of River Omo would not arise.

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<sup>144</sup> Ibid.

# Chapter Five

## Data Analysis

### Introduction

This chapter gives an analysis of information obtained from questionnaires and interview schedules from seven (7) target groups namely Kenya's Ministries of Internal Security and Provincial Administration, Roads, water and Irrigation and Ministry of State for Development of Northern Kenya and Other Arid Lands,. Also in the analysis are views from the Ethiopian Embassy officials in Nairobi and local communities living on either side of the border.

The National Co-ordinator, of the Peace Building & Conflict Management in the National Security Council (NSC) Secretariat which is under the Ministry of State for Internal Security and Provincial Administration informed that their role is of peace building and conflict management initiatives in the country. The secretariat is tasked to bring together peace stakeholders in a bid to co-ordinate and consolidate efforts geared towards peace building and conflict managements in Kenya as well as cross-borders.

The officer further informed that the secretariat mainly coordinates various steering committees for peace building and conflict management. It works together with other stakeholders such as other government officials, civil societies, Christian organizations, women and youth groups. The secretariat works in collaboration with Ethiopian authorities in managing cross-border conflicts.

The officer cited various causes of conflicts in the area such as competition for natural resources mainly water and pastures. Due to regional instability in the neighbourhood of Somalia and Sudan, proliferation of small arms and light weapons is widespread; people easily acquire the weapons to the extent that nearly all civilians are armed purposely for raids and cattle rustling.

The area is said to be prone to extreme harsh weather condition such that it experiences long dry spells which brings about depletion of pastures as well as water resources. This leads to death of livestock and when rain comes, the communities have to replenish their stocks through raids and cattle rustling hence conflicts that emanates from counter raids and revenge.

Subdivision of districts for political administrations was also cited as a major cause of conflicts in the area. The land is normally sub divided and communities are not allowed to graze in their former districts yet their way of live do not allow them to graze in small parcels of land but rather in extensive areas which continue to diminish and more and more districts are created in especially on Kenyan side.

Lack of proper securing of the borders on either side was also mentioned as a major cause of conflicts as raiders and cattle rustlers easily cross to either side of the border. The border is extensive and poorly policed such that many areas are no man's land.

The officer informed that there is also laxity by administrators on either side of the border in swift response to cattle rustling, raids and other forms conflicts. Such delayed response lads to continued tension and revenge. The area is said to have high levels of youth unemployment and commercialization of cattle rustling make many youth engage in rustling and for their livelihood.

Poor infrastructure in the area makes it impossible to follow and arrest raiders and cattle rustlers hence recurrence of the same.

The officer further informed that the nature of conflicts in the border areas are in form of Raids and counter raids, Conflict over fishing especially between Danasseck and Turkana communities, Economic gains, warriors raids animals for commercial purposes, they sell the animals to expected ready markets either in Nairobi or Addis Ababa.

The officers informed that the secretariat coordinate district peace committees and other steering committees involved in conflict management and resolutions and also assists the committee in resource mobilization through fund raising.

The secretariat works smoothly; however, there are Challenges that affects efforts of managing conflict in Northern Kenya such as inadequate resources, committee dishonoring the agreements hence recurrence of conflicts, frequent drought which affect grazing patterns, proliferation of illicit small arms and light weapons where nearly all civilians are armed, poor infrastructure where raiders cannot be followed.

The officer recommends that, for the government and other stake holders to managed conflict in Northern Kenya effectively, there is need for strengthening of security presence along the borders and all conflict- prone areas through establishment of well –resourced police posts and patrol bases, posting of competent officers to these areas, most importantly the army should move from their barracks to border areas in order to secure them.

#### **Analysis of Interview Schedule from the Ministry of Water**

The Asst. Director of Water in the Ministry of Water and acknowledged that the Ministry is responsible for provision of water to all Kenyans. He however said that though the



Government has National Water Policy of 1999, it does not address adequately transboundary water issues, it emphasis internal water related issues. Further, he informed that the Ministry had water master plan many years ago which did not succeed in its implementation and as such, the Ministry came up with water sector reforms which are implemented by water service boards. Each province in Kenya has a water service board that in charge of providing water to people within a particular province.

The officer, further informed that under water service boards, there is Water Service Trust Fund (WSTF) through which the Ministry fund each province in order to improve water service in the province .The Ministry also encourages communities to form Water Resources Users Association (WRUA) which are the channels for government funding using WSTF but other stake holders also avail the same resource to the communities independently.

Regarding transboundary water resources the respondent acknowledged that there are no mechanisms in place and Ethiopians controls most of these transboundary water resource for example River Dawa and Lake Turkana especially at the mouth of River Omo where big fishes are found and many are the times interests of Kenyans sharing the resources are jeopardized by the monopoly of Ethiopians.

Responding to the question on the claims by the civil society that building of Jibe 111 dam on Omo River will produce a broad range of negative effects that will be catastrophic to people and nature, the respondent informed that the claims are unfounded and that there will be minimal negative effects because environmental flow flowing down stream will be maintained and that the moment the dam will fill up, Lake Turkana will never experience negative effects

such as receding. According to the officer, with the construction of the dam the benefits outweigh the negatives effects.

Some of the expected benefits to come along with the construction of the dam include; no fluctuations of water flow and siltation of the Lake, proper management of conflicts between communities on either side of the border and flooding will be checked though this is an disadvantages for Ethiopian farmers who depend on fertile alluvial soils that comes with flooding for farming.

The officer supports the formation of a joint management commission that would oversee the use of waters of River Omo so that the environmental flow is maintained which he said a proposal had already been forwarded to the Ethiopian government but no response as yet.

Though the Ministry endeavors to have equal provision of water to all parts of the country, Northern part of Kenya and even the southern of Ethiopia has unique challenges that hinders proper provision of water and other social amenities to communities in the such as; nature of livelihood of pastoral communities (nomads), government in Ethiopian side (dictatorial) hence minimal cooperation and inadequate resources to be used in provisions of water and other necessities in the area.

The officer further informed that despite the fact that more than 50% of its waters are trans-boundary in nature, Kenya does not have a clearly defined and articulated trans-boundary waters policy. The existing policy is neither documented nor coherently formulated. As a result the country's approach in the management of its trans-boundary waters is reactive and, on the whole, lacking a clear vision. This undermines the country's ability to harness trans-boundary waters effectively for a much needed socio-economic development

**Analysis from the Ministry of State for Development of Northern Kenya and other Arid Lands**

The Natural Resources Management Officer from the Ministry of State for Development of Northern Kenya and Other Arid Lands acknowledged that the Ministry is the focal point for the Government's efforts in addressing not only issues of underdevelopment but also historical injustices and marginalization of Northern Kenya. The officer elaborated on conflicts that characterize the area as resource based, social/cultural and political conflicts. Resources said to be in conflict were pastures/forage, water and livestock.

On social/cultural conflict, the officer informed that cultural practices such as circumcision, marriages, and elder's blessings to a large extent bring about conflicts. For example if a young man wants to marry has steal animals from tribes outside that of his. This has become a vicious cycle of raids from one community to another. Also those who want to undergo circumcision they have to do the same. He emphasized that even if women and girls do not go for raiding, they tend to contribute to conflict equally as warriors because mothers tend to praise their sons who bring large herd of animals home and lowly regard those who fail to bring anything. Girls also tend to despise young men who do not steal animals and prefer to be married by those raiders who bring herd of animals as they regard them as heroes. This applies to all communities in the region, something that has contributed to raids and counter raids hence conflicts.

Resource based conflicts were well elaborated in that; the officer explained why the area is endowed with resources differently. Ethiopia was said to have more resource than Kenya because it is located on the windward side while Kenya is on the leeward side. However each side has a comparative advantage over the other depending on seasons. Communities are said to

cross the border at will but what causes conflict is when communities graze animals in areas reserved for drought seasons and failure to seek permission to graze via negotiation by elders.

Livestock were said to be a cause of conflict as communities' raid to replenish their stocks after drought seasons. Commercialization of livestock was also identified as main cause of conflict in the region as young men are raiding to meet the demand for animal products in urban areas. Animals in the area have gained value to the extent that one (1) Zebu bull is selling for at least Kshs. 40,000. This kind of money has made even the University student to engage in raiding activities. The officer further informed that, government's activities such as branding has contributed to commercialization of livestock in that due to branding the warriors cannot keep the animals and the only way is to sell them.

In assessing the level of development in the area, the officer acknowledged that the area is under developed but it is fully endowed with resources such as livestock, farming of crops such as aleovera and jatrova, game reserves and oil prospects which if utilized, can bring high levels of development in the area.

The main hindrances to economic development in the area were identified as lack of infrastructure in terms of tarmac roads, air strips and ICT Technologies. This infrastructure inhibit private invests due to low or no returns at all. If roads that link Kenya, Ethiopia and Sudan as well as airstrips that links those countries, then development can be realized through trade. Other developments of Lamu port, slaughter houses, transport vehicles with refrigeration could be of great significant in enhancing development in the Northern Kenya.

On political conflicts, the officer acknowledged that, politicians influence communities in spreading hate messages that culminate to conflicts. Communities tend to see each other as competitor to resources such as water, pastures, and business opportunities.

Controversy arising from the Ethiopia constructing Jibe III dam on river Omo and the alleged negative effects it will cause on the River and consequently to Turkana people, the officer agreed that there the breeding ground for fish will be affected hence limited numbers of fish and may cause extinction of the same and therefore communities that depend on fishing as a livelihood then will suffer unless an option is availed. The water may also become more saline discouraging small scale farming on the shores that has been taking. Nevertheless, he informed that there is need to assess the advantages and disadvantages and according to him the advantages out ways the disadvantages and therefore has no complains as such. The advantages mentioned were such as Kenya will be able to import energy hence providing the same many areas in the region with no power. Energy consequently brings about investment in many sectors such as IT, Industrial, Mining that creates job opportunities and improves the living standards of the people. In essence with energy there will be economic development.

The officer informed that the main challenge that the Ministry face in implementing its mandate as well as managing conflicts is that the area is vast, nature of livelihood that communities live is semi permanent and therefore provision of services cumbersome, and there is no proper infrastructure development, climate variability and illiteracy of the local people. However, much effort is directed towards provision of water that will promote other activities such as farming that will supplement pastoral life.

Further the officer gave ways in which conflicts can be managed such as engaging youths with income generating activities, encouraging the communities to rear all types of animals (both grazers and browsers) to maximize of the available pastures so as to maintain some stocks even during drought seasons and education locals on the importance of selling animals during drought seasons and restocking after rains.

The Ministry is also said to be doing a lot in improving the livelihoods of pastoral communities in terms of improving their breeds of cattle, sheep, goat and camel by availing to pastoralists those breeds that reproduces and grows fast as well as those producing higher quantities and quality of milk. The Government is also proving markets for the animals and their products. For example the camel milk is now being sold in the supermarkets and the Kenya meat commission is now completely functional with up to date machineries. To curb conflicts, the government identifies hot spots where more security personnel are deployed and in the same areas, government has been training elders that help in maintaining peace. To motivate communities to maintain peace, those who have done it for long are usually given peace dividends and are also encouraged signing peace declarations such as the Naivasha and Rongraiama Declarations that helps in maintaining peace for longer periods.

In conclusion the officer acknowledged that the two governments have been working together in trying to maintain peace in the region. The two governments have been cooperating in areas such as controlling the spread of small arms and light weapon in the area. On issues of raids and counter raids, the two governments have been assisting each other in identifying and returning stolen animals. To minimize cattle rustling, the government has introduced a

technological way of branding animals such that even if they are stolen and taken to far distance places they can still be identified.

### **Analysis from National Environmental Management Authority (NEMA)**

The desk officer of Northern Kenya in NEMA acknowledged that NEMA is charged with socio-environmental impact assessment where a development project is intended. He informed that NEMA has recently launched a National Climate Change Response Strategy (NCCRS) that is aimed at putting in place robust and thorough adaptation and mitigation measures to minimize risks and maximize opportunities. The strategy will help in addressing all issues related to climate change as well as biodiversity. It is through this strategy that NEMA aims at addressing issues that relate to shared water resources such as Lake Turkana.

Further, the officer made it clear that NEMA deals with environmental matter within Kenyan territory and therefore it did not participate in socio-economic impact assessment on River Omo when Ethiopia was doing it in order to construct Jibe III.

Since there is no agreement between the two countries on shared resources, NEMA feels it is difficult to interfere with Ethiopia's developments on River Omo since it is within her territory and proposes that the matter be addressed by higher levels of the government such as Ministerial levels.

On further consultations, the acting corporate communications manager of NEMA, said the authority plans to carry out an independent Environmental Impact Assessment (EIA) on the building of Gibe III on Lake Turkana after realizing that the initial report from Ethiopian Government may have been flawed.

### **Analysis of Interview Schedule from Ethiopian Embassy in Nairobi**

The Deputy Head of Mission acknowledged that, Kenya and Ethiopia continue to enjoy cordial relations and has many bilateral agreements for cooperation in many sectors of economic development such as agriculture, energy, tourism, education among others. The officer reiterated their government commitment to maintain cordial relations between the two countries.

On the issue of development of Southern Ethiopia, the officer informed that his government is trying its best to direct much of financial resources for provision of water to local communities and most important to assist farmers in engaging in other economic activities such as irrigation on River Dawa.

The officer accused the civil society and media in Kenya for tainting the work of Ethiopia Government and making the international community rise against the government's development agendas. He specifically pointed out developments on River Omo where his government is disappointed by some donors who have withdrawn their funds and others commitment to fund construction of Jibe 111 due to lies and propaganda spread by some Kenyan activists.

Responding to adherence to international principles on utilization of shared resources such as information sharing and consultations when a given riparian state intends to introduce development project on shared resources, the officer informed that his government did environmental assessment on the said river and the result shared with the Kenyan Government. The officer further informed that the two governments have agreed on the development and even signed an agreement that Kenya will import power after construction of the dam. He expressed his discontent with the government of Kenya for not coming out publically and defends



Ethiopia's activities on River Omo and informed the development will continue despite propaganda from civil societies and media groups.

### **Analysis of Interview Schedule from the Ministry of Roads**

The Chief Economist officer from the Ministry of Roads provided information on behalf of the Ministry and his response for various issues asked were as follows; that the Ministry of Roads is mandated by the Kenyan Government to provide basic infrastructural facilities in terms of road construction and rehabilitation in all parts of the country. The officer acknowledged that the Northern part of Kenya is both marginalized and has difficulty of accessibility due to its poor road network. According to him the Northern part of Kenya has few number of roads that are tarmac, majority of them are all weather roads impassable. To tackle this challenge the Government of Kenya in collaboration with development partners like China Government in road construction to open up such areas. This include Isiolo Moyale road which is at an advanced stage.

The officer admitted that the inaccessibility of some roads in the region and poor accessibility of others coupled contributors of conflict among the local communities sharing cross-border resources. Insecurity in the areas is as a result of bandits who are believed to be a threat to peaceful co-existence of the local communities.

Lack of good roads in the region has always repelled or turned away investors either locals or foreign. This in turn hinders economic development in the area. Bandits on the roads have also curtailed many economic activities such as trade and investment, communication and health education and labour mobility among others. To curb issues of bandits, the government has been

providing police escort to vehicles and people travelling to the area meaning that security are far away to end in the area.

The Ministry of Roads has come up with various processes though up to now not many but all the same, they are aimed at opening up the northern part of Kenya to business investors. These include the earlier stated one on Isiolo-Moyale Road, the Business Solutions Center at Garrissa Trade Office funded by United Nations Development Programmes (UNDP) and also there is a proposal by the Ministry of Livestock to be buying livestock from farmers at a good price especially during the dry seasons. A related programme is opening up of Kenya Meat Commission for the farmers to sell their products at a remarkable market price and enhance the market value chain.

The Chief Economist also informed that the Ministry is also focused toward achieving vision 2030 by improving the state roads in the area with view of opening it for economic development.

#### **Analysis of Interview Schedules and Questionnaires from the Local Communities.**

The local communities acknowledged that water and pastures are major causes of conflict in the area. For example among the Rendille community, there is only one borehole where all the people are supposed to get water from and as such due to competition; the borehole has turned out to be the cause of conflict. Other causes of conflict include cultural practices, illiteracy (lack of exposure), border conflicts and government activities such as disarmament.

Cultural practices were mentioned by the majority as major causes of conflicts in that some practices unless people are educated there is no way conflict will be management in the area. For example, among the Rendille, for a young man to marry, he has to kill another young man

outside his tribe and when this happened there has to be revenge hence a cycle of conflicts between Rendilles, Dannesack in Ethiopia and Gabras, borana both in Kenya and Ethiopia. There is need to educate people the essence of life of another person and that some cultural practices are primitive and have to be done away with.

Idleness was cited as another cause of conflict in the area, due to the ecological nature of the area; there is nothing much the youths can engage into and therefore are mostly engaged in cattle rustling, raids and counter raids.

The local communities have been assisted to a larger extent by stake holders such as non-governmental organizations and women groups. Non Governmental Organizations (NGOs) such as Kenya Livestock Marketing Council among the Rendille community which has managed to take 15 girls to school and has elevated many boys from herders to schooling.

Local communities acknowledged that they have been marginalized for long and it is this marginalization that causes conflicts. Lack of infrastructure such as good roads was also cited as a major cause of conflict in the area because it is very difficult to follow up a criminals who always disappears in thickets where they cannot be followed due to inaccessibility.. Other infrastructures such as schools and hospitals are very few. For example Among Rendille community there is only one school and one dispensary. The inadequacy of infrastructure has been largely attributed to the way of life of the pastoral communities (moving from one place to another makes hinders provision of infrastructure such as schools and hospitals). In some areas communities have been managing conflicts on their own through councils of elders and to a limited extent government intervenes. In other communities where the councils of elders are not

effective, conflicts are managed by the government but many are the times that people take law on their hands.

The officer acknowledged that along the common border, the two countries cooperate in managing conflicts but not in introducing development projects that can be shared between the communities across border. Therefore many people are idle and therefore easily engage in undesirable activities such as raids. If there can be an agreement in cooperation especially in provision of infrastructure and social amenities, then the area can be turned to an economic hub. Ethiopian government has tried to construct roads but on Kenya has been left behind thus no meaningful economic development activities arising from trade between the two countries that take place.

The local communities acknowledge that each side of the border has comparative advantage over the other. For example on Kenyan side there are goods schools, banking systems and hospitals and Ethiopian side energy (power), good restaurants, tarmac roads and generally goods and services are cheap. Sharing these resources for example is difficult because the education systems are different. Issues of tribalism has also been spread by political leaders that makes communities see each other as competitor other than good neighbour and therefore the spirit of harmonious co-existence is low. Thus there is need to harmonize the education system which can accommodate all the learners in the area. This means that there is need for an international school.

Conflict mainly emanate from cattle rustling as communities replenish lost herds after drought, disease, raids and also to meet the social economic requirements of the family including

paying of bride price. If alternative or a supplement to pastoral farming is availed to them, then conflicts can be managed.

Most of the locals felt that, they have no issues with their neighbours but the political leaders incite them into conflicts with one another. Most of them regrets that they fight and kill one another yet their leaders do not fight among themselves. Responding to the question of how they can independent in making decision, they informed because of low levels of literacy, political leaders continue to make decisions for them. They therefore feels that if locals are educated then they can be able to make viable decisions on their own.

#### **Limitations of the study.**

In the process of data collection, the interviewer encountered a number of challenges such as;

1. Lack of cooperation- some interviewers could give appointment and the material day they purport to be in meetings and continue posting the interview for another day. Other respondents could give wrong information especially the local communities at the border.
2. Lack of openness by the respondents – this was mainly on the Ethiopian side from the Embassy; they would give minimal information and would not accept to be interrogated further.
3. Misconception – some of the respondent could think the interviewer was from the National Intelligent Committee and would refuse to give information. These were mainly Ethiopian local communities are immigrant working in hotels and in textile businesses.
4. Language barrier- some of the local communities could hardly speak English or Swahili and the interviewer had to use an interpreter.

5. Distance and fear of insecurity- the distance from Nairobi to Moyale is quite long and at some places there is insecurity and passengers have to be given a police escort due bandit attacks.

### **Conclusions**

The analysis indicates that Northern Kenya and Southern Ethiopia are regions that are marginalized from the central governments, they have abject poverty, low levels of education, compared to other areas are the last in economic development and are characterized by conflicts mostly from cattle rustling, raiding and banditry. The region has primitive cultural practices that hinder social-economic development. Lack of infrastructure development especially on Kenyan side was cited as a major cause of conflict by many respondent and they propose that if infrastructures are availed in the area, then economic development can be realized and hence improve the living standards of the local communities.

Other than pastoral farming, most of the respondents informed of the importance of other activities such as irrigation farming and flower farming to boost pastoral farming. Tourism was also mentioned as an import investment to help in uplifting the level of economic development as well as living standards of the people.

Most of the respondent feels that with the coming up of counties in Kenya, there will be positive change in the area as available resources as well as those that will come from central government will be properly utilized for the development of the area. Also cooperation with the Ethiopia side will be possible because administrations are now more similar- Ethiopia side, federal and Kenyan side, counties.

## **Chapter Six**

### **Conclusions and Recommendations**

#### **Conclusions**

The study established that there are frequent conflicts along the Kenya-Ethiopia border and mostly arises from competition for scarce resources such as water, pastures and business opportunities, marginalization from central governments, lack of proper infrastructures and archaic cultural practices. However, the research shows that these conflicts can be completely managed if right mechanisms are put in place.

The study further established that conventionally, the government has used its statutes to address issues of conflicts management through court system. This has however not been effective.

The research established that communities can co-exist and live harmoniously. Issues of conflicts among them arise when political leaders incites communities against each other by making inflammatory statements. As a result communities hate one another and see each other as a competitor either for water, pastures or business opportunities. Political leaders in the area lack good leadership qualities such as integrity and honesty; they do not preach peaceful co-existence

and harmoniously relationships between the communities but hatred instead. Political leaders are also said to influence discriminatory appointments/recruitments of civil servants and other leaders something that has perpetuated politics of patronage and tribalism in the area.

The region is said to be among the poorest in Kenya and Ethiopia. It has low indicators of aspects such as infant mortality, life expectancy at birth, primary health care coverage, access to safe water and sanitation facility. It is expected that with the coming up of the counties, these issues will be addressed effectively so as to uplift the living standards of the people. This is expected to be possible as counties will be independent as it is federal government on the Ethiopia side and therefore cooperation will be possible.

Poorly designed policies for the region have been identified as the main causes of underdevelopment as well as marginalization. These policies were mainly designed by colonial administrators and others by subsequent governments after colonial masters. These policies have not been changed to fit in the recent times of technological advancement, globalization, international community cooperation, global climatic changes and other new issues such as piracy and terrorism.

The study shows that other than the two governments, there are other stake holders who assist in conflict management. These include Non-Governmental Organizations (NGOs) such as Food for the Hungry International (FHI), OXFARM among others. Conflicts affect the work of NGOs directly and some have been forced to reduced their operations tremendously for example FHI has had their operations reduced by 60%. Since NGOs have specific targets and areas of operation in the region, have been misconstrued that they are supporting or are biased in favour



of specific communities to the disadvantage of others hence conflicts between them and alleged disadvantaged communities.

The study establishes that the area is endowed with resources if properly utilized can improve to a large extent the economic status of the region and transform life styles of the local communities through creation of employment opportunities in sectors such as mining, irrigation and tourism. With the coming up counties on Kenyan side, it is expected that the area will develop through utilization of the available natural resources especially the lake, minerals and game reserves. It is hoped that county leaders will give priority to transformation of cultural practices into tourist attractions for economic development. Such transformations will to a great deal help in conflict management.

### **Recommendations**

The study established that there is an urgent need for the formation of Transboundary Natural Resource Management Commission (TBNRMC) between the two countries which is a process of cooperation across boundaries that facilitates or improves the management of natural resources along the border for the benefit of all communities on either side of the border. This will ensure sustainable use of the resources for future generations. Other than TBNRMC, Kenyan government needs to put in place proper policies that govern use and management of transboundary resources. For example this research confirms that Kenya has little control on what goes on in Lake Turkana and River Dawa, Ethiopians tend to dominate most of the activities such as fishing and irrigation.

There is need for the two government to strengthen traditional mechanisms for conflict management which has proved to more effective than the modern way of court systems. Communities have been using traditional authority systems vested in the council of elders. For instance, among the Borana nad the Gabra found on either side of the border, the Gada system regulates culture, rituals, economics, politics and security systems. Therefore traditional leaders in such system as Gada should be given more authority by the government for effective conflict management and peace building.

Mechanisms that can help in improving economic status of the area include; development of infrastructure such as roads to open up the region and make it accessible across border. This will promote trade in terms of goods and services between the two countries than will consequently translate to economic development of the region. Schools are other infrastructure that people in the area are in dire need of. Due to the nature of people's livelihood, it is important to established free boarding schools where learning and feeding programmes are availed. This is because even if education is free there seems that the region is yet to benefit since children follow their parent in such of water and pastures for animals. Where schools are established or in nearby places, health centres should also be established.

There is need for the government and other stake holders to educate local communities on the importance of shunning away primitive cultural practices that brings about conflicts in the area. These cultural practices have perpetuated conflicts leaving no room for economic development. Productive activities to engage the local communities should be established so as to avoid reliance on relief food and to eliminate idleness.

There is need for the area to build up social and economic structure and try to attract foreign investments. This can only be made possible if there is peace and has security on sustainable basis. It is expected that with the coming up of counties, maintenance of peace will be given a priority.

The study also established that, there is minimal cooperation because of the nature of governments of the two states. One is dictatorial and the other is democratic and therefore they quite different way of approaching issues. Regardless of this, two states should accommodate each other's interests meaning they should responsibly and collectively cooperate in addressing problems as they occur in the area.

For the area to develop, poorly designed policies on matters that destabilize the livelihood of pastoral communities must be done away with. There has to be a complete overhaul of how issues of pastoral communities are addressed by introduction of new means of livelihood other than pastoralism in order to engage the communities with a view of uplifting their livelihood. These activities can be in terms of irrigation farming where boreholes and wells should be dug to avail water for farming. Flower farming can also be introduced in green houses.

Other than pastoral activities the region should come up with other production activities on the basis of comparative advantage of each country. This will widen the market and increase efficiency in production and supply hence promoting economic development in the area. For the area to develop, it has to embraces tenets of good governance especially with the introduction of counties. Leaders in the area must put in place mechanism of governance that is effective and efficiency, transparency and accountability, and have consensus orientation. Issues of political and communal supremacy should be done away with. As such conflict will be managed

completely and pave way for political and socio-economic development. This in turn will provide security in terms of food, health, environment, economic and political

There is need for further research on rights mechanisms that can be employed to teach local communities to abandon their primitive cultures that perpetuate conflict in the area. These cultural practices seem to be embroiled in the minds of the local people such that the few that are educated they also practice them. The practices have made the area lag behind others in terms of development in Kenya as well as in Ethiopia.

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