IDSBulletin
Transforming Development Knowledge

FIFTY YEARS OF RESEARCH ON PASTORALISM AND DEVELOPMENT

Editor Ian Scoones

Contents

1 Introduction

Livelihood systems in rural social formations often involve the utilization of natural resources for multiple purposes (e.g. wetlands which are used for both cropping and for grazing) or by more than one user (as when rangelands are grazed by different herdowners or groups of herdowners). Disputes or conflicts are common in these situations, and institutional frameworks for resolving disputes and managing conflict have usually evolved in response. These frameworks, however, have come under increasing stress under the impact of processes of rapid social, economic and political change, and rural development projects often produce conflict as they alter terms of access to and control over resources. Thus conflict, and attempts to resolve, accommodate and manage it, have become increasingly central in the development arena.

This article addresses these issues in contexts where pastoralists and agro-pastoralists are engaged in multiple resource use systems. The causes of disputes and conflicts in such systems are examined, and innovative approaches to prevention, management and resolution are discussed. Also explored are the implications for conflict management of policies and programmes which promote decentralization and the empowerment of local decision makers.

2 Multiple Resource Use in Pastoral and Agro-Pastoral Contexts

Multiple resource use is a central feature of many production systems, and of pastoralism and agro-pastoralism in particular. It typically involves complex combinations of the following variables:

● different categories of users (e.g. individuals, households, kinship groups, corporate groups, villages, communities, tribes, ethnic groups)

● users of different status (e.g. owners; co-owners; primary, secondary and tertiary users; lessors and lessees; unrecognized or 'illegal' users)

● different uses (e.g. gathering and cutting of foods, grass, fuelwood and materials for craft production; hunting; annual cropping; permanent

Conflict Management for Multiple Resource Users in Pastoralist and Agro-Pastoralist Contexts

Ben Cousins

cropping; grazing and browsing, by single or multi-species herds; water for livestock, domestic supply, irrigation)

● resources of differential productivity, economic value and ease of control (e.g. stably productive gardens on fertile soils vs rainfed arable fields of lower fertility; high productivity lowland grazing vs low productivity extensive rangeland; close or permanent water sources vs distant or seasonal water sources)

● different sets of rights and obligations for users of resources (e.g. rights to different uses, for defined time periods or seasons; rights of disposal; rights of occupancy, access or transit; reciprocal rights of access).

Understanding these systems requires that they be disaggregated into their component variables, and the inter-connections between these variables explained. Thus Thebaud (1995) describes resource use in the Sahel as involving a multiplicity of users: an annual pasture is often accessible to many users from different directions who remain for an indeterminate time; valleys or *bas-fonds* may be exploited and jointly controlled by several agro-pastoral village communities, or by smaller groups with family fields within the bas-fonds; family fields will be controlled by households. These fields may be opened at certain times of year to passing herders in terms of manuring contracts. Non-exclusive rights, e.g. to water points, may involve priority usage rights for a restricted group or even a family, but also allow access by other pastoralists in accordance with strict rules aimed at controlling grazing in the surrounding area. Pastoral land use involves a duality of vast rangelands and more limited home areas which often contain strategic resources: deep wells, areas around lakes, rivers, streams or permanent water holes or *bas-fonds* rich in woody species.

According to Niamir-Fuller (1994), multiple resource use in pastoral Africa was traditionally regulated by informal or formal rules based on priority of user groups: 'primary users' had highest priority within their home territory, 'secondary users' had seasonal access, and 'tertiary users' had infrequent access in times of need e.g. drought

years. She distinguishes between five territorial units within a hierarchy of tenure regimes: the customary territory belonging to the 'tribe'; flexibly defined annual grazing areas within the territory, with priority use by several clans, sections or sub-clans; dry season bases where a specific group such as a sub-clan was the primary user and other groups were secondary or tertiary users; key sites within the dry season base; and group or individual resources/areas, such as trees in Turkana, where a household or group of households was the primary user.

Nianir-Fuller (1994: 29) also describes overlapping territories, managed jointly by neighbouring groups, which allowed some room for expansion and functioned as fall-back areas in difficult years; and buffer zones between groups, maintained for similar reasons, but more extensive and used by more than two groups. The latter required *ad hoc* negotiations over use between the different groups when the need to use them arose.

Behnke (1994) provides examples from Bedouin Libya of hierarchies of rights to water, arable land and pasture resources based on variations in their productive value and costs of control. This results in varying degrees of exclusive control of resource use, as in Thebaud's and Niamir-Fuller's descriptions. Thus in African pastoral tenure systems

> ... the natural landscape is seldom carved up into neat territorial packages owned by distinct groups or individuals. Instead, any defined area is likely to be used by a myriad of different ownership groups of variable size and composition, with overlapping claims to territory derived from particular claims to different categories of resources within it.
>
> (Behnke 1994: 7)

Multiple and overlapping rights to resources are also a feature of agro-pastoral systems of production in Africa (Scoones and Wilson 1989; Scoones 1996), and of African tenure systems in general (Berry 1993).

3 Multiple Resource Use and Conflict Management in the 'New Thinking' on Pastoralist Development

Multiple resource use has ecological and economic rationales which are particularly compelling where the productivity of resources is highly variable over space and over time - i.e. where so-called 'non-equilibrium' ecological dynamics are found (Behnke 1994). The emerging paradigm suggests that the dynamics of many arid and semi-arid rangelands may be driven by episodic events such as droughts or fires, and thus '... the condition of [a] grazing system at any particular time is determined more by the chance occurrence of non-biological events than by interaction between the biological components of the system itself' (Behnke and Scoones 1993: 9; see also Ellis and Swift 1988; Westoby *et al.* 1989).

Behnke and Scoones (1993: 13) show how mobility can increase the overall carrying capacity within a region which incorporates a wide range of seasonal carrying capacities in different zones. This assumes a pattern of predictable environmental fluctuation. A similar argument is made by Sandford (1983: 33-36) for situations where stock movement takes place in response to unpredictable rainfall fluctuations, disease outbreaks, borehole breakdowns and range fires. In the former case pastoralists often follow regular transhumant route; in the latter movement is more contingent and depends on herdowners preserving access to fall-back areas.

For pastoralists, 'opportunistic' herd movement over long distances is thus essential in order to track environmental variability and thus to maintaining the large herds which constitute their main source of livelihoods (Behnke and Scoones 1993). Variability occurs at both the macro-scale (e.g. contrasts between clay veld savanna and sand veld savanna), and at the micro-scale (e.g. between riverine areas and toplands), and thus modified forms of opportunism are found in agro-pastoral systems as well (Scoones 1989; Cousins 1992).

Behnke (1994: 8) traces the implications for tenure and administration of this emerging perspective: in non-equilibrium environments, non-exclusive forms of rights to use resources are complementary to opportunistic stocking and herding strategies. Indeterminate social and territorial boundaries provide 'a degree of fluidity which suits everyone's requirements'. Complexity and flexibility mean that close regulation by administrators is therefore inappropriate (and generally ineffective), and devolution of administration and management to individual pastoralists and communities is more feasible (see also Swift 1994; Sylla 1994). It also suggests that local users should be given legally recognized rights over resources, something which is still absent in many pastoralist and agro-pastoralist situations (NOPA 1992; Lane and Moorehead 1994).

The 'new thinking' also asserts that a situation of chronic or endemic conflict is a central feature of non-equilibrium settings (Behnke and Scoones 1993; Scoones 1994; Niamir-Fuller 1994). This helps to explain the high degree of inter-group conflict often associated with pastoralism, but also the patterns of co-operation and reciprocal access which are found. Environmental variability thus results in a high degree of political (and sometimes military) competition, ameliorated by periods when competitors relate to each other as allies, neighbours or even kin (Behnke 1994: 5).

The policy implication of this perspective is a shift in administrative focus from regulation and control of resource use to mediation and arbitration between the conflicting interests of individuals and groups. This further suggests that legal frameworks should focus on procedural rather than substantive law (Vedeld 1993), which cannot easily codify customary law without losing its internal complexity, flexibility and adaptability to change. Procedural law would '... specify the framework within which interested parties could legitimately put forward claims to resources, the administrative/jural institutions which should process claims, the criteria for choosing between opposing claims, and enforcement procedures' (Behnke 1994: 15).

Similarly, Scoones (1994: 31) suggests that conflict be explicitly addressed and accepted as inevitable rather than being ignored or treated as an incidental or removable feature. Again, the recommendation is to establish formal institutional arrangements for negotiation, arbitration and resolution. Sylla (1994) and Vedeld (1992) advocate

a central role in conflict resolution for pastoral organizations, and Swift (1994) highlights conflict resolution as a central function of pastoral administration at different levels.

4 Institutions for Conflict Management in Multiple Resource Systems

This discussion suggests two additional variables which are likely to be found in multiple resource use systems:

● institutional arrangements for managing multiple use (e.g. for allocating resource use rights within groups; negotiating access between different groups or individuals and households within groups; developing or adapting rules of access or management; imposing sanctions or punishments for transgressions)

● conflict management and dispute resolution institutions and mechanisms (e.g. age-group systems, councils of elders, traditional courts and tribunals, informal police forces, 'modern' courts and judicial systems)

Traditional institutions with these functions were deeply embedded within the social and cultural norms and practices of different groups, and often integrated into other social, economic and political structures (Rugege 1995; Bradbury *et al.* 1995; Sylla 1994; Bollig 1994). Less well integrated, and less effective, were mechanisms for negotiating agreements and ending conflicts between ethnic groups, and between pastoralists and sedentary agro-pastoralists and cultivators (Ndagala 1991; Bollig 1994). Conflict was endemic, and often regulated by stock raiding and warfare rather than negotiation (see Behnke's analysis above).

This characterization, however, is inadequate as a description of the situation in recent decades. The literature on pastoralist and agro-pastoralist systems, and more generally on agrarian change, has as a central theme the undermining of pre-colonial social and institutional orders. Certain of their features were incorporated into colonial systems of administration, resulting in the mixed or 'hybrid' nature of current legal and administrative systems (Swift 1994; Sylla 1994; Vedeld 1992; Rugege

1995). As the authors cited above in relation to the 'new thinking' on pastoralism imply, the institutional frameworks which currently exist often fail to deal adequately with disputes and conflicts (see also Bradbury *et al.* 1995 for examples from Tanzania).

This institutional malaise can only be partially understood by referring to the institutions themselves; the wider context of rapid rates of social and economic change combined with political instability has also to be taken account of.

5 Pastoralism in Crisis: From Chronic to Acute Conflict

A number of authors have described pastoralism in Africa in recent years in terms of a 'crisis' (NOPA 1992; Vedeld 1992; Niamir-Fuller 1994). Central features of this crisis include: prolonged droughts; population increases; encroachment of agricultural lands and conservation areas, leading to alienation of grazing lands and displacement of pastoralist populations; degradation of fallow land and land around inadequate numbers of water points; the marginalization of pastoralists within national polities and hence development programmes; inadequate access to markets and unfavourable exchange rates between livestock and grains; inadequate supply of social services to mobile groups of herders; increasing levels of insecurity, warfare and conflicts between nation states; sedentarization, out-migration and urbanization; breakdown of traditional social and institutional structures; increasing marginalization of women; growing general levels of poverty and vulnerability to famine.

Clearly there is a great deal of regional variation in the incidence of particular processes and problems, and thus in the dimensions, as well as depth, of the 'crisis'. Generally, however, these trends are resulting in greater competition for scarce resources, heightened levels of tension within and between pastoralist and agro-pastoralist social formations, rising numbers of disputes, and increased instances of overt conflict. A pattern of acute and often destructive conflict has been superimposed on the endemic or chronic conflict identified above as integral to situations of multiple resource use.

This underlines the need to make conflict management a central feature of policies and programmes aimed at promoting sustainable livelihoods in the context of multiple land use. The inadequacy of existing mechanisms and institutional frameworks for effective conflict management also, however, indicates a need for innovative approaches to deal with new kinds of conflicts and multi-dimensional and complex situations where there are no obvious or easy answers.

A need to innovate is also indicated by the internal transformations being experienced by pastoralist and agrarian social orders. Research points to deepening social differentiation and rising levels of inequality, pauperization side by side with accumulation, and new forms of internal political power (NOPA 1992: 12). Institutional renewal is constrained by this 'heterogeneity of interests within herder groups' (Lane and Moorehead 1994: 131). Traditional mechanisms for conflict management within groups are proving inadequate to deal with new forms of internal dispute (e.g. within group ranches for Maasai in Kenya - see NOPA 1992: 44; Galaty 1993).

These themes are highlighted in a report on contemporary conflict in a pastoralist setting in Tanzania (Bradbury *et al.* 1995). Conflicts are occurring at three levels: (i) between pastoralists and the state, over land rights (ii) between competing land users, over access to diminishing resources (iii) between pastoral organizations, over different approaches to halting the loss of land. Internal divisions within some pastoralist communities are also a source of tension.

There are two driving forces underlying the alienation of pastoral land: government policies which favour settled agriculture and privatization, and widely held views on the inefficiency and destructiveness of pastoralist land use. Past policies of villagization and current directives for issuing titles to village land, together with land use planning, are leading to the break up of the pastoral commons. Villagization imposed an alien system of government, statutory law and decision making on indigenous systems, with administrative and political functions being transferred from traditional leaders to Village and District Councils. Villagization also disrupted customary land tenure,

land being nationalized in 1962; recently privatization policies have been pursued. In 1992 legislation was introduced to extinguish all customary rights to land.

Liberalization of the economy has increased possibilities for marketed crops and encouraged individuals and companies to acquire land for commercial farming. In Simanjiro district, for example, some 45 000 acres had been acquired for 72 farms by 1993, almost all alienated from former livestock pastures. In northern Tanzania the interests of conservationists and the tourism industry have also come into conflict with pastoralists and hunters and gatherers, with many of the latter groups being forcibly removed from protected areas. More and more pastoralists have been pushed into marginal areas, herds have declined and people have been forced into crop farming.

Pastoralists are organizing themselves into NGOs to defend their interests and taking government to court to fight land alienation. External NGOs are assisting pastoralists and their NGOs, and have convened workshops to consider approaches to conflict resolution. These have examined traditional mechanisms for handling conflict, and the problems attendant on attempting to integrate these into contemporary local government structures.

6 Conflict Management Theory I: Causes, Levels and Phases of Conflict

What light can contemporary theories of conflict management throw on these increasingly central issues? Firstly, many theorists differentiate between different causes, levels and phases of conflict.

Thus Burton and Dukes (1990) distinguish between:

● management problems, which involve arguments or differences over the choice of alternatives among persons having the same goals and interests

● disputes, which involve competing but negotiable interests, and issues of gain or loss

● conflicts, which involve the development and autonomy of the individual or identity group, and

are thus bound up with non-negotiable human needs and questions of identity.

This suggests different approaches to dealing with these situations; the typology proposes matching the problem situation with appropriate processes and procedures. Thus management problems are best dealt with through processes of problem solving, improved communication and improved personal interaction. In the case of disputes, settlement processes such as judicial procedures, negotiations and bargaining will be appropriate. Interest disputes are readily provoked by competition in the use of resources or by broken agreements, and remedies include sanctions and arbitration.

In conflicts, however, resolution processes are required which satisfy deep-rooted human needs and questions of identity, and these cannot be addressed through narrowly defined interest- based negotiation or mediation processes. Culture and cultural differences, through which identities are constructed and defined, are often important but problematic dimensions of these situations, and of conflicts over natural resources (Cultural Survival Quarterly 1995). Resolution requires in-depth understanding of relationships, and often the assistance of a third party. The appropriate procedures are 'analytical problem solving and the discovery of means or satisfiers that meet the needs of all concerned' (Burton and Dukes 1990: 8).

In recent years there has been a trend away from formal judicial processes and bargaining towards more participatory procedures such as conciliation and mediation, or what is known as Alternative Dispute Resolution (ADR) processes. These have helped to make a veritable growth industry of conflict management, but according to Burton and Dukes this is part of a long-term trend in contemporary society towards 'deregulation', decentralization and local decision making, as societies have become more complex and conflicts over a wide range of issues have escalated (ibid.: 10). These alternative processes have been employed for both disputes and conflicts, partly because they have often not been seen as clearly separate.

Although it is sometimes difficult to determine whether a situation is an argument, a dispute or a conflict, it remains crucial to correctly assess the nature of the situation. For example, where deep-rooted problems of identity (e.g. ethnicity) occur, 'negotiation on the assumption that the problem is an issue of different interests only could result in outcomes that would make the situation even more intractable' (ibid.: 9). However, another danger is protracting disputes and conflicts through palliative processes (e.g. attempting to promote better communication between parties), which divert attention away from the underlying structural causes of the conflict.

Limitations of the typology

These distinctions have been used in the analysis of conflict situations within a deeply riven society undergoing a painful process of transition towards democracy - South Africa. Kraybill (1995: 6), for example, writes that parties in conflict almost always see it as 'a struggle for power and resources and believe the solution is more power and resources ... [but] if ways can be found to meet the basic human needs which drive the parties, there is often more room for flexibility about the arrangement of resources and power than might as first seem possible'. He suggests that, while physical needs are important, more basic are those which involve human interaction and social process; much conflict can be prevented by making planning and decision making truly democratic, and there is 'enormous scope for dealing constructively with development-related conflict' through focusing on process rather than product (ibid.: 8).

However, also writing from within the South African experience, van der Merwe et al. (1990) suggest that where gross injustices occur, conflict cannot be accommodated constructively without fundamental social change, and that even violence, while destructive, should be seen as part of the communication process between adversaries. Furthermore, in situations of great asymmetries of power between adversaries, a process of empowerment of the weaker party is essential if negotiations or other procedures are to be effective is resolving (or accommodating) the conflict (see Box 1).

Can conflicts originating in 'basic human needs' (e.g. for identity and recognition) be clearly separated from disputes over scarce resources? Van der Merwe (1993) argues that the discrete

Box 1	Negotiation Principles in Situations of Endemic Conflict: Principles from Pre-democratic South Africa

1. Conflict is natural and endemic. It can serve useful social functions and can often be accommodated constructively.

2. Under present conditions, fundamental social and political conflict can be accommodated or managed but not resolved.

3. Where gross injustices are built into the major social structures, conflict cannot be accommodated constructively and social justice and peace cannot be achieved without fundamental structural change.

4. Coercion and negotiation are complementary aspects of communication between adversaries.

5. Violence is a destructive manifestation of conflict, but should be interpreted as part of the communication process between adversaries.

6. Gross asymmetries of power between contending groups hamper successful negotiations since the more powerful partner is likely to benefit.

7. Where there is gross asymmetry of power, empowerment of the weaker party is essential.

8. Participation in legal structures can provide organizational and legal space for the consolidation of a power base that can serve to empower weaker participants.

9. The process of conflict resolution or accommodation needs to be institutionalized.

10. Institutions created for handling conflict must be legitimate.

11. Participants in negotiation structures and processes must be representative of their constituencies.

12. Coercion exerted on the adversary must be constructive and conditional.

13. The goals of peace and justice are complementary; you cannot have the one without the other.

14. Where negotiation between adversaries is not possible because of rigid stances, inadequate communication or structural obstacles, mediation is required.

Source: van der Merwe *et al.* 1990

categorization proposed by Burton and Dukes is problematic, and that 'if human needs are seen as an aspect (present to a greater or lesser degree) of many real-world conflicts ... processes to deal with this aspect of the conflict can be used in a complementary fashion along with other processes' (van der Merwe 1993: 4).

This suggests that identifying the fundamental character of the problem situation is important, but that in practice a clear separation of levels will often be difficult.

Phases of Conflict

Other approaches to disaggregating conflicts suggest identifying nested spheres or levels (Dugan, cited in van der Merwe 1993; Rupesinghe 1995), and distinguishing between phases or stages of a conflict (Rothman 1995; Rupesinghe 1995; van der Merwe 1993; Fisher and Keashley 1991). This again suggests criteria for selecting procedures or intervention strategies, and underlines the importance of identifying conflicts in their early phases (see Box 4). This may require a degree of

Box 2	Phases of Conflict and Appropriate Interventions	
	1. Conflict formation	Early warning
	2. Conflict escalation	Crisis intervention
	3 Conflict endurance	Empowerment and mediation
	4. Conflict improvement	Negotiation/problem solving
	5. Conflict transformation	New institutions and projects
Source	Rupesinghe 1995	

institutionalization of a conflict management system (M. Ross 1995; Rupesinghe 1995; Box 1).

Rothman (1995), using the example of water disputes in the Middle East, suggests that intractable identity-driven conflicts can be transformed into interest-based disputes through a pre-negotiation process. This involves 'mutual story telling' in which core values, needs and the metaphors which organize them are communicated and reflexively framed, and this establishes common ground for a phase of negotiations and problem solving.

Anaya and Macdonald (1995) show how, in conflict over forest resources in Nicaragua, negotiations were successful once the core issues were defined way from basic values towards distributional interests. However, also important in the pre- negotiation phase were actions (such as legal assistance and legal action) which redressed the original power imbalance between the disputants.

This was also evident in the conflict which occurred in the early 1990s over the establishment of the Richtersveld National Park in Namaqualand in the Northern Cape province of South Africa (Sharp and Boonzaier 1993). The park is an arid and mountainous landscape with a unique flora. The land was formerly part of the Northern Richtersveld 'coloured' reserve, one of several communal areas held in trust by the state for the descendants of the indigenous Nama people. The Nama were originally nomadic pastoralists, who had intermarried with settlers and people of mixed race, and during the 18th and 19th centuries lost most of their land to white settlers and mining companies.

The park is a partnership between the National Parks Board and the people of the reserve. A contract stipulates that the park will be governed by a joint committee, and that a trust fund, managed by elected trustees, will receive rents from the Board and use the funds for community development. The contract also provides for some of the pastoralists to carry on using part of the park for grazing their herds of sheep and goats.

This contract was only signed after a protracted struggle by the people of the Richtersveld to retain rights to use the area and benefit from ecotourism income. The attempt to negotiate a co-management contract for the new park was complicated by internal divisions within the community, between a resident's association and members of the unpopular local government (set up and supported by the apartheid government).

A court interdict prevented the local government structure signing away pastoralist rights, and required the Parks Board to renegotiate. The resident's association was supported by a land rights advocacy NGO, who helped prepare legal submissions, provide background information, and design strategies (Steyn 1994).

In the initial phase an acute conflict existed, and the Richtersvelders asserted their rights to resources based on their identity as descendants of the holders of aboriginal land rights; they felt both access to a critical resource and their cultural identity was under threat. Empowerment through organization, supported by outsiders, together with legal action, prepared the ground for a second phase of dispute

and interest-based negotiations, resulting in a new legal and institutional framework (the co-management contract). This has given way to a third phase, when management issues (e.g. stocking rates and herd movement patterns within the park, and development of the park) are the focus of disagreement and argument (Steyn 1994).

7 Conflict Management Theory II: Procedures and Processes

A number of procedures or processes are used in dispute settlement and conflict resolution, ranging from those which stress collaboration and voluntary efforts to find a solution, to those in which a third party makes a binding decision. Pendzich (1994) and Anderson *et al.* (1996) provide useful definitions:

● Fact finding is the investigation of key issues in a conflict by a neutral third party, who gathers information from all sides and prepares a summary; this can be a useful input to a negotiation process.

● Facilitation is the assistance of a neutral third party in running a meeting and helping make it productive; this can involve assisting in developing an agenda, keeping participants on track, and in ensuring that all parties have an equal voice. Often their role is limited to a single meeting.

● Collaborative planning is a process in which the parties agree to work together in anticipation of a conflict, and plan ways to avoid the conflict.

● Negotiation is a voluntary process in which parties meet face to face to agree on an acceptable solution to a dispute.

● Mediation is the assistance offered by a neutral third party to a negotiation process; the mediator has no power to direct the parties or render a decision. The mediator must be accepted by all parties as a trusted, impartial person; sometimes the best mediators are local people who are familiar with cultural norms and local setting.

● Conciliation is the attempt by a neutral third party to communicate separately with disputants, in order to reduce tensions and agree on a way forward.

● Arbitration involves the submission of a dispute to a third party acceptable to both disputants, who makes a binding or advisory decision after hearing arguments and reviewing the evidence.

● Adjudication is a judgement rendered according to objective standards, rules or laws, by a judge or administrative officer with the authority to rule on the issue in dispute.

Deciding which process to use is the key to success, but '... each (or a combination of several) of [these] processes ... needs to be tailored to the specific situation', and '... no single approach is presumed to be effective in all situations' (Pendzich 1994: 7).

Conflict resolution in African customary law

As pointed out previously, much of the conflict over multiple resource use will be managed by 'mixed'institutions comprising both customary and formal elements (Swift 1994). How do conflict management processes in customary law compare to those listed above?

According to Rugege (1995), the objective of traditional courts or tribunals in Africa was to reconcile the disputants and to maintain peace, rather than to punish the wrongdoer. The 'winner-takes-all' judgements favoured by adversarial systems of law were generally avoided in favour of a 'give-a-little, take-a-little' principle. Procedures in the ideal-typical court were simple and informal and took place in public; women, however, were excluded from the proceedings except when directly involved as plaintiffs or claimants.

The process emphasized fairness and substantive justice rather than strict rules of law, and the chief, with the advice of his councillors, generally took the final decision. Rights of appeal existed but were seldom used. The distinction between criminal and civil wrongs was blurred, and most disputes were in relation to personal wrongs. Most claims were for reparation or compensation, and sanctions were generally in the form of fines; there was no imprisonment.

Bradbury *et al.* (1995) report that traditional conflict resolution processes within Barabaig and

Maasai societies have 'considerable capacity' to handle conflict. They stress reconciliation of disputing parties, and work because of generally accepted rules and sanctions. Elders who mediate conflicts are given authority to make decisions and impose sanctions. This is one clear difference between African customary law and the formal processes listed above.

In relation to the less adversarial procedures listed above (e.g. collaborative planning; negotiation; mediation), the focus on joint problem solving in both customary and formal approaches is a core similarity. This offers hope for combining elements of both approaches in innovative ways, drawing on the strengths of both (Pendzich 1994; Moore and Santosa 1995; Helen Ross 1995).

There are potential difficulties involved too, however. Rugege stresses that one of the disadvantages of customary law in contemporary African societies lies in the fact that new situations have arisen not covered by customary law. As Bradbury *et al.* (1995) show, one of these is when customary land rights have been modified; another is where new administrative structures (such as Village Councils) have been imposed, and no customary mechanisms exist for dealing with conflict at this level. A third exists when conflicts occur between parties from different cultures (e.g. between local resource users and multinational corporations, international conservation organizations, or government officials from different cultural backgrounds). This might also occur in situations where conflicts over resource use occur between pastoralists and farmers in zones of expanding cultivation by in-migrating agro-pastoralists.

Another view emphasizes deep differences between 'Western' and 'non-Western' approaches; according to Merculieff (1995), Western systems are inherently goal-oriented and fear based, and tend to negotiate conflicts from a position of power and in order to control people and situations. In contrast, non-Western approaches tend to be process-oriented, focused on the needs and desires of the people rather than on the results. Values of respect, honesty, dignity and reciprocity are stressed, and a connectedness with feelings and acred identities.

Salem (1995), however, feels there is a danger in overemphasizing the dichotomy between goal and process, and that behind different rituals and cultural patterns is '... usually a fairly hard-nosed process of bargaining and agreement-building that has many inherent characteristics that differ little from 'culture' to 'culture' '.

8 Conflict Management Where Power is Unequal

As suggested at various points above, a key issue in conflict management is the relative power of the parties involved. According to Marc Ross (1995), inequality limits the usefulness of negotiation, mediation and other joint problem-solving processes. In these situations, weaker parties may, for example, withdraw from negotiations but without ultimate benefit; or distrust based on inequality of power may pre-empt constructive discussions even beginning. South Africa's legacy of highly skewed distributions of wealth and power provides many such situations (Box 1).

Attempts to equalize power can take place both outside of arenas of direct interaction between parties (e.g. during a pre-negotiations phase) or within the processes themselves. Some examples include:

● modifying the procedures used to manage or resolve the conflict - e.g. ensuring that what is at stake for the weaker party is better heard by others; a willingness to meet in settings the weaker party feels comfortable with; an adoption of the discussion styles of the weaker party (Helen Ross 1995); and adoption of aspects of customary procedures which are familiar to the weaker party (Moore and Santosa 1995).

● legal advocacy or action, or political action to change the legal framework of rights to resources - e.g. a court interdict prevented the extinction of pastoralist land rights in the Richtersveld National Park in South Africa; in Nicaragua, through legal advocacy the people of Awas Tingni secured territorial rights to their land according to traditional rules of land tenure (Anaya and Macdonald 1995; see also Macduff 1995, on Maori land rights in New Zealand).

● mobilizing and organizing strategies - through forming associations or other local organizations to press claims and defend interests (e.g. the formation of pastoralist NGOs in Tanzania - see Bradbury *et al.* 1995; the establishment of the Awa Federation in Ecuador - see Villareal 1993). Sometimes confrontational tactics, such as land invasions, promote community mobilization and empowerment (see Macduff 1995 for New Zealand; principle 4 in Box 1).

● forming alliances with external organizations which provide support and resources - this can take various forms, including legal advice (Villareal 1993), technical assistance (Anaya and Macdonald 1995), and training (Bradbury *et al.* 1995; Pendzich 1994).

Another dimension of unequal power relations is that of internal differences within groups - what some refer to as internal stakeholder analysis. Marc Ross (1995) refers to the frequency of 'factional interests and differences of values' over resource use, and the importance of critically examining whether or not leaders actually do represent the interests of members of the whole group (Villareal 1993).

Anderson *et al.* (1996) ask us to consider the role of women in conflict management ('How can they be better integrated and taken into account? What is the nature of their participation and to what extent are they further marginalized or more empowered by the conflict management process?'). They do not answer these questions themselves, but the aspects listed above in relation to power relations between parties in conflict perhaps apply equally to gender inequality within groups too.

9 Contingency Models for Conflict Management

What is the most appropriate approach to take to conflicts or disputes over multiple resource use? As the cases cited in this article show, two fundamental difficulties are the multi-dimensionality and complexity of problem situations, and their contextual specificity, both of which make hazardous the simple application of generalized models. Helpful here are 'contingency models' which suggest linking particular conflict resolution tech-

niques to the specifics of the situation and the phasing of the conflict (van der Merwe 1993; Fisher and Keashley 1991; Pendzich 1994). One might term this a 'mix and match' approach. This perspective, taken together with the other elements of conflict management theory described above, suggests some diagnostic questions which might be asked when grappling with contingency:

Nature of the situation:

● is this a conflict, a dispute, or a management problem, or a mix of these?

● how are different levels of dispute or conflict related to one another?

● how are interests and identities related in this situation?

● are basic structural changes in social, economic, or political orders required in order for the conflict to be resolved or accommodated?

● who are the relevant stakeholders, within groups as well between groups?

● are group leaders truly representative?

● which stage or phase has the conflict reached?

Pre-negotiations processes:

● is there scope for collaborative planning to prevent a conflict or dispute occurring?

● does the weaker party in the dispute or conflict need to be empowered?

● what empowerment strategies might be pursued outside of the conflict arena (e.g. legal action; organization; training?)

● is there a role for legal or technical assistance from support agencies?

● can information gathering and dissemination improve the prospects for joint problem solving?

● is there scope for communication between parties on basic issues of identity and definition?

Selection and design of processes or procedures:

● do processes or procedures address cultural and identity issues?

● do they address inequalities of power between groups? within groups? gender inequalities?

● is there scope for integrating aspects of traditional conflict management processes?

● have appropriate third parties (facilitators, mediators etc) been selected? Are they acceptable to all parties?

● what mix of processes and procedures is appropriate, and in what sequence?

10 Conclusions

Conflicts over multiple land use are likely to be endemic in rural development settings which involve pastoralists and agro- pastoralists; in many they may have become acute and potentially highly destructive. Innovative approaches are called for which draw on customary procedures and institutions, but also on more recent and formalized approaches. Conflict management is a growing and increasingly sophisticated field of theory and practice, and rural development practitioners would be well advised to draw on this expertise.

As described by Bradbury *et al.* (1995), one use for this expertise is training and capacity building in conflict management at local level - in community organizations and producer associations, local administrative structures, and development agencies. This will contribute to the institutionalization of conflict management within these contexts, and provide a means of preventing many conflicts from reaching the acute stage.

Care is needed, however, in designing interventions, and in the diagnosis of the causes of conflict. As the case studies cited here clearly show, it is not easy in practice to distinguish between management problems, disputes and conflicts, or between situations where the primary question is one of competing interests and those where deep-rooted questions of culture and identity are at stake. This means that in designing interventions or offering support to disputing parties, both goal and process are dimensions of conflict management that need careful attention.

A theme of some of the literature on conflict management is the destructive role of social change, portrayed as highly disruptive of traditional institutional arrangements which provided 'checks and balances' and prevented conflict from getting out of hand. Another view, however, also surfaces on occasion. Here conflict is viewed as potentially constructive, and as serving useful social functions at times (see Box 1). One such 'constructive function' is desirable social change: while change does sometimes result in destructive conflict, conflict can also result in redress of injustice, democratization and a more equitable distribution of resources (see the Richtersveld case study described above). Other potentially positive features include the deeper understanding of underlying social processes that can result, and the incentive to organize, mobilize and establish clearer group or organizational identities. Rural development practitioners have been enjoined to embrace error (Korten 1980); should we be embracing conflict too?

References

Anaya S.J. and Macdonald, T., 1995, 'Demarcating indigenous territories in Nicaragua', **Cultural Survival Quarterly** Vol 19 No 3, Fall

Anderson J., Gauthier, M., Thomas, G. and Wondelleck. J., 1996, 'Addressing natural resource conflicts through community forestry: setting the stage', paper for E-Conference on 'Addressing Natural Resource Conflicts through Community Forestry', FAO, Rome

Behnke R. 1994, **Natural Resource Management in Pastoral Africa**, London: Commonwealth Secretariat

Behnke R.H. and Scoones, I., 1993, 'Rethinking range ecology: implications for range management in Africa', in R.H. Behnke, I. Scoones and C. Kervan (eds), **Range Ecology at Disequilibrium. New Models of Natural Variability and Pastoral Adaptation in African Savannas**, London: Overseas Development Institute, International Institute for Environment and Development, Commonwealth Secretariat

Berry S.,1993, No **Condition is Permanent. The Social Dynamics of Agrarian Change in Sub-Saharan Africa**, Madison: University of Wisconsin Press

Bollig M., 1994. 'The application of PRA methods to the study of conflict management in a pastoral society', **RRA Notes** 20, London: IIED

Bradbury Mark, Fisher, Simon and Lane, Charles, 1995, **Working with Pastoralist NGOs and Land Conflict in Tanzania**, London: IIED

Burton, J. and Dukes, F. 1990, **Conflict: Practices in Management, Settlement and Resolution**, New York: St Martin's Press

Cousins B., 1992, **Room for Dancing On: Collective Decision Making in Grazing Schemes in Zimbabwe**, Harare: Centre for Applied Social Sciences, University of Zimbabwe

Ellis J. and Swift, D., 1988, 'Stability of African pastoral ecosystems: alternate paradigms and implications for development, **Journal of Range Management** 41: 450-459

Fisher R.J. and Keashly, L., 1991, 'The potential complementarity of mediation and consultation within a contingency model of third party intervention', **Journal of Peace Research** 28: 29-42

Galaty J., 1993, 'Individuating common resources: sub-division of group ranches in Kenya Maasailand', Case study paper for conference on New Directions in African Range Management and Policy, 31 May - 4 June, Woburn U.K. IIED, ODI and Commonwealth Secretariat, London

Korten, D.C., 1980, 'Community organization and rural development: a learning process approach, **Public Administration Review** 40: 48-510

Kraybill, R., 1995. 'Development, conflict resolution and the RDP', **Track Two** Vol 4 No 3, September

Lane, C. and Moorehead, R., 1994. 'New directions in rangeland and resource tenure and policy', in: I. Scoones (ed.), **Living with Uncertainty; New Directions in Pastoral Development in Africa**, London: IIED and Intermediate Technology

Macduff, I., 1995, 'Resources, rights and recognition. Negotiating history in Aotearoa/New Zealand', **Cultural Survival Quarterly** Vol 19 No 3, Fall

McCreary, S.T., 1995, 'Independent fact-finding as a catalyst for cross-cultural dialogue', **Cultural Survival Quarterly** Vol 19 No 3, Fall

Merculieff, L. 1995, 'The key to conflict resolution: reconnection to the sacred', **Cultural Survival Quarterly**, Vol 19 No 3, Fall

Moore, C. and Santosa., M.A., 1995, 'Developing appropriate environmental conflict management procedures in Indonesia', **Cultural Survival Quarterly**, Vol 19 No 3, Fall

Ndagala, D.K., 1991, 'The unmaking of the Datoga: decreasing resources and increasing conflict in rural Tanzania', **Nomadic Peoples** 28

Niamir-Fuller, M. 1994, 'Natural resource management at local- level', in: **Pastoral Natural Resource Management and Policy. Proceedings of the Subregional Workshop, December 1993, Arusha**. New York: UNSO

NOPA, 1992, Pastoralists at a Crossroads. Survival and Development Issues in African Pastoralism. Nairobi: UNICEF/UNSO Project for Nomadic Pastoralists in Africa

Pendzich, C., 1994, 'Conflict management and forest disputes - a path out of the woods?', **Forest, Trees and People** Newsletter No 20. Rome: FA.

Rothman, J., 1995, 'Pre-negotiation in water disputes', **Cultural Survival Quarterly** Vol 19 No 3, Fall

Ross, Helen, 1995, 'Aboriginal Australians's cultural norms for negotiating natural resources, **Cultural Survival Quarterly**, Vol 19 No 3, Fall

Ross, Marc, 1995, 'Interests and identities in natural resource conflicts involving indigenous peoples', **Cultural Survival Quarterly**, Vol 19 No 3, Fall

Rugege, S., 1995, 'Conflict resolution in African customary law', **Africa Notes**, October

Rupesinghe, K., 1995, 'Multi-track diplomacy and the sustainable route to conflict resolution', **Cultural Survival Quarterly**, Vol 19 No 3, Fall

Salem P., 1995, 'Culture, conflict and negotiation in natural resource bargaining', **Cultural Survival Quarterly** Vol 19 No 3, Fall

Sandford, S., 1983, **Management of Pastoral Development in the Third World**, Chichester: ODI and John Wiley

Scoones, I., 1994, 'New directions in pastoral development in Africa', in: I. Scoones (ed.), **Living with Uncertainty: New Directions in Pastoral Development in Africa**, London: IIED and Intermediate Technology Publications

——, 1996, **Hazards and Opportunities. Farming Livelihoods in Dryland Africa: Lessons from Zimbabwe**, London: Zed Books and IIED

Scoones I. and Wilson, K., 1989, 'Households, lineage groups and ecological dynamics: issues for livestock research and development. in Zimbabwe's communal lands', In B.Cousins (ed.), **People, Land and Livestock, Proceedings of a Workshop on the Socio-economic Dimensions of Livestock Production in the Communal Lands of Zimbabwe**, Harare: GTZ and Centre for Applied Social Sciences, University of Zimbabwe

Sharp, J. and Boonzaier, E., 1993, 'Staging ethnicity. Lessons from Namaqualand', **Track Two**, Vol 2 No 1, February

Steyn, L., 1994, 'A shift in the balance. How rural communities are finding bargaining power'. **Track Two**, Vol 3 No 1, February

Swift, J., 1994, 'Dynamic ecological systems and the administration of pastoral development', in I. Scoones (ed.), **Living with Uncertainty: New Directions in Pastoral Development in Africa**, London: IIED and Intermediate Technology

Sylla, D., 1994, 'Pastoral organizations for uncertain environments', in: I. Scoones (ed.), **Living with Uncertainty: New Directions in Pastoral Development in Africa**, London: IIED and Intermediate Technology

Thebaud, B. ,1995, 'Land tenure, environmental degradation and desertification in Africa: some thoughts based on the Sahelian example', **Drylands Programme Paper** No 57 London: IIED

van der Merwe, H., 1993, 'Relating theory to the practice of conflict resolution in South Africa', Draft chapter for inclusion in D. Sandole and H. van der Merwe (eds) **Conflict Resolution Theory and Practice: Integration and Application**

van der Merwe, H., Maree, J., Zaaiman, A., Philip, C., and Muller., A., 1990. 'Principles of communication between adversaries in South Africa', in J. Burton and F. Dukes (eds), **Conflict: Readings in Management and Resolution** New York: St Martin's Press

Vedeld T., 1992, 'Local institution building and resource management in the West African Sahel', **Pastoral Development Network Paper** No 33c, London: Overseas Development Institute

Villareal, C. 1993. 'The creation of the Awa Indian territory in Ecuador'. Rome: FAO

Westoby, M., Walker, B.H., and Noy-Meir, I., 1989, 'Opportunistic management for rangelands not at equilibrium', **Journal of Range Management** 42: 266-274