

“Left in the Forest and Forgotten”
Land Policy and the Plight of the Benet

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Dedicated to all people, the world over, who find themselves living amid uncertainty.

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And all the people who helped me along the way, not just by offering information, but by braving rain and cold and opening their hearts and homes in order to show me not just a beautiful mountain, but a beautiful people.

Abstract

In carrying out my independent study project on the issue of the Benet being displaced by the creation of Mount Elgon National Park, I had three main objectives in my mind. My first objective was to investigate and gain a balanced perspective of the effects of the Benet's most recent eviction from Mount Elgon National Park. Secondly, I wished to analyze the government's role as a duty bearer in compensating and resettling

the Benet for their land. Lastly, I wished to explore the Benet Community's options for redress within the legal system.

The methods I utilized included a literature review, informal conversations, semi-structured interviews and observation. I undertook the literature review mainly at the Uganda Land Alliance and the Foundation for Human Rights Initiative, in addition to reading news articles and reports. In living with a Benet family in Kapchorwa for two weeks, I was able to directly observe the living conditions of those with uncertain land tenure and physically see the different boundaries during a transect walk. I was also able to utilize the knowledge of community members in drawing a map of the disputed areas. I conducted semi-structured interviews and also engaged in informal conversations with both Benet and non-Benet community members, including an e-mail correspondence with the Uganda Wildlife Authority.

My findings included a better understanding of the reasons for evictions and the problems the Benet have faced historically as a marginalized group. I discovered that although legally the Benet are entitled to the land as indigenous inhabitants, what is put down on paper and what is actually being upheld often differs. My findings also included the government's plans for permanent resettlement and the Benet community's own desires for permanent resettlement. There is an overarching need for the disputed land area to be officially degazetted in order for social development such as roads and schools to occur and for the Benet to have land tenure security.

Introduction

Land is livelihood to most Ugandans. Whether they farm or raise animals, or both, their land is their means of survival. It is into their land that their time and energy has been invested. Their children have been born upon it. Their land is where they have buried their fathers and grandfathers.

But all too often in history, and not just Uganda's but in the histories of countries across the world including the United States of America, people have been displaced from land they traditionally have held. In Uganda, this displacement has occurred for a variety of reasons. People, known as internally displaced persons, have been forced off their land and placed into IDP camps by the government in an attempt to better protect them from conflict and war. An even more controversial appropriation of land in Uganda has occurred when the state takes land from groups and individual citizens in the name of conservation and preservation of wildlife and biodiversity. One example of this occurring is in south-western Uganda, where the Batwa community has been evicted as a result of the creation of Bwindi National Park ("Public Dialogue"). Likewise, in eastern Uganda, the Benet, also known as the Ndorobo, community has been forced off land they have traditionally held by the creation of Mount Elgon National Park.

Does the Ugandan government have the power and right to do such things? The answer is yes. As enunciated in Land Tenure and Management in Uganda: 1900-1998, A Sensitisor's Guide,

"The Land Act [of 1998] provides that Government or a Local Government can, if need arises, compulsorily acquire land only if, the following conditions are satisfied:

- *It is taken in public interest (for the good of the public)*
- *Compensation is paid*
- *The payment of compensation is prompt, fair and adequate before the land is taken."*

But even with these guidelines being set forth, a certain vagueness remains within the law. How is the "good of the public" going to be determined and by whom? And the same goes for the part about compensation, from where in the budget is the government to get the compensation? And what constitutes "fair and adequate"?

While Uganda has a series of laws and acts such as the Constitution, the Land Act of 1965, the Land Act of 1998 and the Land Bill of 2003 (a series of amendments to the Land Act of 1998), it currently lacks a land policy to help answer those above questions, though it is in the midst of drafting and developing one. As Margaret Rugadya states in “Land Reform: The Ugandan Experience,” *“[There is a] need for a clear and comprehensive national land policy to guide the provisions in the land law, streamline the objectives and guard against contradictions and inconsistencies cannot be underestimated. A national land policy is also necessary to guide institutional implementers on how to exercise the discretionary powers, which the new law bestows on them. The policy would also guide in the prioritisation of objectives as well as the implementation activities.”*

A good land policy leads to land tenure security, which can be defined several ways:

- *The degree of confidence that land users will not be arbitrarily deprived of the rights they enjoy over land and the economic benefits that flow from it;*
- *The certainty that an individual’s rights to land will be recognized by others and protected in cases of specific challenges, or more specifically,*
- *The right of all individuals and groups to effective government protection against forced evictions (“Secure Land Rights for All” 5)*

Without land tenure security, uncertainty leads individuals to not invest in their land and manage it properly. What’s the use of spending time and money taking care of something that might be taken away from you at any moment?

It is vital that this security is not just guaranteed in documents, but also guaranteed in fact and put into action. Government needs to carefully weigh the pros and cons of taking land from individuals and utilizing it for the public good instead. Not only does such land need to be properly compensated for, but consideration should be made as to whether or not those individuals will be able to earn a livelihood somewhere else. As Margaret Rugadya writes, *“A good land tenure system should not force people off the*

land, particularly those who have no other way to earn a reasonable living or to survive. Land tenure system should protect people's rights in land so they are not forced off the land before there are jobs available in the non-agricultural sector of the economy (“Land Reform”).”

This report is not just a retelling of the history of a people and their relationship with the land, but a probing into the clash between people and conservation at times, what happens when the public good differs from the good of the individual and the necessity of the mistakes of past administrations being accounted for and resolved.

Research Methodologies

The methods I utilized included a literature review undertaken mainly at the Uganda Land Alliance and the Foundation for Human Rights Initiative, in addition to reading news articles and reports. While this was important in gaining a general understanding of the issue, interviewing and observation proved to be the most fruitful and illuminating methods. In living with a Benet family in Kapchorwa for two weeks, I was able to directly observe the lifestyle of the Benet and the hardships faced by them. A transect walk provided me with a better understanding of how the boundary lines have changed over time, as did the map that community members were able to draw for me.

Semi-structured interviews as well as informal conversations were the main sources of information for me. I was seeking mostly qualitative rather than quantitative data so interviewing was a very suitable method. I was able to interview a total of 18 people including those from the Uganda Land Alliance and other civil societies who had worked on the court case and families and community members living in the disputed area as well as those living in the temporary resettlement area. Members of the Benet Lobby Group, Moses Mwanga and Edward Twala, were able to provide a good deal of information, both on the historical and present situation of the Benet. A focus group discussion conducted in October helped spur my initial interest in the issue and provided a framework for my objectives. I was able to carry on an e-mail correspondence with a Uganda Wildlife Authority official after initially meeting with him in Mbale. I also

talked to the LCV chairman and a member of the Steering Committee, the committee charged with figuring out how to resettle those evicted.

My main goal in interviewing was to gain a balanced perspective of the issue. At the same time, I wanted to talk to more members of the Benet community rather than government officials in order to have a more grass roots rather than a top down approach. I also wanted to make sure that the information I was gathering was actually substantiated and not just hearsay. I wanted to be careful as well in determining whether or not the allegations against the government and UWA were well founded.

While I was anticipating language being an obstacle, it ended up not being one at all. The only interviewees that did not speak English were those living in the disputed and temporary settlement areas. David Kanda and Edward Twala were able to serve as translators in those instances. I did encounter a slight obstacle in initially getting the Uganda Wildlife Authority official to answer my questions since the area in question was technically national park land (though people are living on it) and thus required approval, but the misunderstanding was cleared up and he proved very accommodating. My main obstacles were physical obstacles such as the rain storm that prevented me from interviewing more families living in the temporary resettlement area and the distances that needed to be traversed in order to get to those I needed to interview.

Justifications

While in many ways the issue of the Benet being displaced by Mount Elgon National Park is an old issue, it remains a relevant issue to research. Not only are problems from the past reappearing, but the recent February eviction makes it a current issue as well. The ramifications for those recently evicted and those living in the currently disputed area further down the mountain will have an effect on how the people live and the chances for their community to develop.

I hope that this report is able to offer the government some new perspectives and a chance to hear the voices of its citizens as they seek permanent resettlement and secure land tenure. This is an important issue that people need to be aware of, especially those politicians who are in the midst of formulating a land policy for Uganda and need to

realize how such a policy will affect the livelihoods of not just the Benet, but future generations of Ugandans.

Objectives

In carrying out my independent study project on the issue of the Benet being displaced by the creation of Mount Elgon National Park, I had three main objectives in my mind. My first objective was to investigate and gain a balanced perspective of the effects of the Benet's most recent eviction from Mount Elgon National Park. Secondly, I wished to analyze the government's role as a duty bearer in compensating and resettling the Benet for their land. Lastly, I wished to explore the Benet Community's options for redress within the legal system.

History of the Benet

The Benet, also known as the Ndorobo, is an indigenous group of people who have lived on the moorland of Mount Elgon for the last 200 years. They are both part of the Kapchorwa Sabiny people and also of Kalengin ethnicity, the Kalengin people having come from Kenya. Unlike the other groups Sabiny of Kapchorwa and Bukwoo, they occupied the upper most part of the Mount Elgon ranges, some as far as 6000 feet above sea level ("Advocating"). Three groups of people fall under the general category of "Benet," their only difference being their geographical location: the Benet, the Yatui, and the Kwoti. The Benet occupied the central part of the moorland while the Yatui were located in the eastern part and the Kwoti the western part (Twala).

While the Sabiny lived further down the mountain and farmed and the Benet lived a pastoral lifestyle in the forest and hunted, their language was similar. The dialect was different but they could still understand each other (Twala). The Benet often traded with the Sabiny, exchanging baskets made out of bamboo collected from the forest for maize and other food. In the Benet tradition, the men were the cattle keepers and hunters of wild game such as buffaloes, antelopes, elephants and small animals while the women made bamboo baskets and gathered fruits, honey and bamboo for food (Mwanga).

Land was held communally. There was a strong emphasis on community; they built houses together (flat houses with mud roofs) and helped each other in times of need. The average farmer had about 20 head of cattle, though that number could range from 10 to 100 head of cattle depending on how wealthy the farmer was (Mwanga). While goats and sheep were also kept, cattle were the animals most crucial to the Benet's livelihoods. *“Cattle represented a key status symbol for men; the wealth and ability of a man to provide for his family was measured by the size of his herd...[The Benet] exchanged, slaughtered and consumed cattle at important ritual occasions such as circumcision ceremonies and marriage celebration and, before widespread conversion to Christianity, sacrificed burnt cattle offerings on ridgetops (Himmelfarb 7).”*

It is important to differentiate between the various uses of the term “Benet.” Sometimes it is used only to refer to those who occupied the central portion of the moorland and sometimes to all three groups. Nowadays, the term is sometimes used to describe anyone who lives in the resettlement area, although the area includes others who were given land but are non-Benets, such as those displaced from the plains by cattle rustling. For the intents and purposes of this report, the term “Benet” refers to all three groups of indigenous people, the Yatui, the Benet and the Kwoti, who have lived on Mount Elgon for hundreds of years.

History of Mount Elgon National Park (MENP)

Mount Elgon is an extinct volcano on the border between Uganda and Kenya, its highest peak being 4,320 meters above sea level. Its vegetation has been described as *“montane heath and moorland vegetation”* in the upper areas, while farther down the mountain *“tropical afro-montane forest and bamboo surrounded by densely populated farming areas”* can be found (Lang and Byakola 21). There are many reasons that Mount Elgon is important environmentally. *“Several major rivers have their headwaters on Mount Elgon, including the Suam River flowing north and the Lwakaka River flowing south. The supply of water from Mount Elgon is often cited as a reason for conserving the Mount Elgon watershed (Lang and Byakola 21).”* Another important element of conservation is that Mount Elgon is *“habitat to a number of rare and threatened bird*

species. IUCN has listed 37 species in the area of Mount Elgon as ‘globally threatened (Lang and Byakola 22).’”

Both Uganda and Kenya have established National Parks in an attempt to help conserve the biodiversity of this vital ecosystem. Mount Elgon National Park in Uganda covers an area of 112,385 hectares and lies within Mbale and Kapchorwa districts. There are 58 parishes and 500 villages surrounding Mount Elgon National Park. Most notably, *“the population densities around the park are among the highest in Uganda: 512 people per square kilometre in Mbale and 224 people per square kilometre in Kapchorwa (Lang and Byakola 22).”* Most of these people depend on farming for their livelihood, leaving almost none of the area surrounding the National Park uncultivated.

The British were the first to mark a boundary and designate the land a crown forest in 1936. Over time, both the boundaries and status of the forest have evolved, going from crown forest to forest reserve to national park finally in 1993, as the government has changed as well, moving from colonial rule to independence. These changes in the status of the forest have greatly affected the lives of those living around, or formerly within, the forest such as the Benet.

History of the Relationship between the Benet and MENP

Prior to the British gazettement of the forest in 1936, the Benet were free to live the nomadic pastoral lifestyle they had traditionally known. But with the gazettement of the forest came a number of restrictions which the British imposed upon the Benet who were living within the bounds of the forest. The Benet were only allowed to keep sheep and no longer able to graze goats, they were not allowed to burn charcoal or firewood or cultivate the land. The British set forth a duty tax which was assessed according to the number of cattle that a family had. But all in all, the British policies were fairly lax and often not enforced. The Benet were still allowed to hunt game and collect bamboo shoots as well as medicinal plants (Mwanga).

But even though they were paying taxes to the British, the British never bothered to develop the area. One community member put it like this: *“We were left in the forest and forgotten as if we were part of the trees, and yet we were made to pay graduated tax.*

Schools, roads, health units and any other social infrastructure was non existent in this area for a long time (“Advocating”). Largely the British ignored the Benet and didn’t view them as a problem, allowing them to continue living in the forest. But the British viewing the Benet as marginal and not taking into consideration population increases and the possible strain on the environment in the future, deciding instead, for all extents and purposes, to ignore the Benet, would set a dangerous precedent.

The years from 1936 to the early 1970’s saw big changes for the Ugandan government and for the Mount Elgon area. In 1951, the area was changed from a “Crown Forest” to a “Forest Reserve” and the British started selective logging. Uganda gained independence in 1962 and in 1968; Mount Elgon was re-gazetted as a Central Forest Reserve. (Lang and Byakola 27, 30)

The year 1971 saw extreme droughts and as a consequence, wild fires throughout the forest. *“To compensate for the loss of forest products, the Benet started growing crops. Having ignored the Benet for 40 years, the Forest Department now decided that the Benet were encroachers. The Benet were harassed and several were imprisoned* (Lang and Byakola 31).” In response, the Benet Lobby Group was created in 1972 to represent the interests of the Benet and to advocate for them.

Soon afterwards and continuing into the early 1980’s, the Forest Department started to resettle Benet who were living inside the forest reserve farther down the mountainside, in between the Kere River to the east and the Kaptokwoi River to the west (Mwanga). According to Himmelfarb, the resettlement was justified *“as a means to promote environmental and economic developmental interests* (Himmelfarb 5).” Many of the Benet were reluctant to leave the forest and those that did found the change hard to adjust, having to settle down when previously they had had the free range of Mount Elgon. Most people wanted to stay as before though some did look forward to the opportunity for access to education and other social developments that they would not otherwise have.

In 1983, the Ministry of Forestry (the government body responsible for the issue at the time) decided to allocate land to those who had been evicted from their land. There were to be six zones in which people were to be placed, named Zones A through F. The Benet were not the only people to benefit from the allocations; in addition to the Benet,

those who had been displaced as a result of cattle rustling in the lower plains and other violence as well as the needy were given land. These non-Benet were usually given two to three acres, while those identified as Benet were given more land, at least 10 acres. As a result a large number of residents in the resettled area are not Benet; for example, of the 240 families in Zone F, only about 50 are Benet. (Twala)

And not all those who received land fell into one of those three categories – Benet, displaced by cattle rustling or needy. There were many allegations of forest officials grabbing land for themselves and their families, as well as local government officials taking land. As Denis Mutabazi wrote recently in the editorial section of “The New Vision,”

“Contrary to government intentions, much of the 6,000 ha land was grabbed by, and benefited voracious power brokers at the expense of the voiceless, impoverished Ndorobo [Benet]. Prominent local politicians and businessmen parcelled [sic] out big chunks of land for themselves and their relatives. Even forest rangers who were on the land allocation [committee] became illegitimate beneficiaries. What was meant to be a gesture of goodwill from Government was abused by officials of the same government...”

And to add to the general confusion, some of the Benet who received land and had not been properly sensitized about their rights to the land, sold their land and returned to the forest as encroachers. One of the three subgroups of Benet, the Yatui, failed to receive any land. The Yatui lived in the east, the farthest away from the new resettlement area and many did not see any reason why they should leave their homeland for a confined place. It has also been suggested that they were deceived by their leaders so that those leaders could grab more land for themselves. It is important to bear in mind that many of the Benet were uneducated and illiterate and therefore a very vulnerable group. (Twala)

Amidst the problems of corruption and greed, several other mistakes were made in the allocating of the land. The land was given out in a very short period of time, only six weeks, and because of the haste, the entire process was less than thorough (Lang and Byakola 32). Another glaring error was the fact that the land had not been officially de-gazetted (and would not be until 2002, see Appendix III for a map of the settlement

areas) so the land was technically still part of the Central Forest Reserve and thus those living on the land were technically illegal inhabitants, or encroachers.. The mistake of the allocation committee that would cause the most problems in the future was their failure to have the “6,000” hectares of land surveyed. People were told that they were allowed to settle below a natural cliff ridge (known as the 1983 boundary line or the red line) and between the Kere and Kaptokwoi Rivers (Mwanga). As a result, the government ended up giving out more than 6,000 hectares, giving out around 7,500 hectares instead.

In 1989, the status of the Mount Elgon area changed once again, from a Central Park Reserve to a Forest Park. Tensions between park officials and locals began to rise, as those who were still living within the park, the Yatui, were harassed and threatened. Hunting and grazing restrictions were enforced and arrests made and fines levied. In 1990, forest department staff burned the houses of the Yatui in an attempt to force them off the land (Mwanga). The Yatui fled and resettled in the area on top of the cliff, an area which was above the 1983 boundary line. This would prove to be an unfortunate decision in the years to come.

In 1993, the Forest Park became Mount Elgon National Park. As a National Park, the area was “*accorded the highest conservation status*” and was “*protecting natural and scenic areas of national and international scientific, educational, and recreational use...Prohibited activities include settlement and other forms of land use and extractive resource use (State of the Env.).*” While the designation of the land as a National Park was perhaps beneficial for the purpose of “*scientific, educational and recreational use,*” it was detrimental to the livelihoods of Benet community members. It is here where the question of what constitutes the public good needs to be seriously considered. As Moses Mwanga, the founder of the Benet Lobby Group declared “*The government calls it good policies, but to us, it is negative policies when policies oppress and make one landless in your own motherland.*” There was a noted lack of looking for input from the Benet themselves while the decisions being made had great consequences for them.

During this same period of time, control of the park area changed hands. While the Ministry of Forestry and the Forest Department had previously been in charge of maintaining the land, it now fell into the domain of the Ministry of Tourism and the

Uganda Wildlife Authority (UWA) (Lang and Byakola 37). In 1993, the government discovered when they undertook a survey of the area that more than 6,000 hectares had been given out in 1983. The new boundary set forth did not include the 1,500 hectares that had been previously erroneously distributed by the government. Those who had been living in that area, around 6,000 people, found themselves evicted again. But this time around, there was no land allocation committee distributing land, the evictees were told that they would have to be squeezed into the 6,000 hectares area which was already occupied by others (Mwanga). The Ministry of Tourism now found themselves in the unfortunate position of being responsible for mistakes made by the Ministry of Forestry.

The next ten years, from 1993 to 2004, were particularly tense times as relationships between the Benet and UWA officials worsened. Benet community members allege that the UWA were told “If anyone is found in the forest, shoot at sight” during that time. It is alleged that eight people were killed by UWA officials, including a man shot to death in 2003 when he was found carrying poles used for the construction of a hut from the National Park, and that Benet women were raped as well. Animals found grazing within park boundaries were arrested and a fine needed to be paid before they were released, the cost of the fine often necessitating that the person sell one of his animals in order to be able to pay it.

In October of 2002, the 6,000 hectare area was finally officially de-gazetted after being put to a vote in Parliament (Mwanga). Those living within that area land now had land tenure security. The 2002 line, which was located slightly below the line surveyed in 1993 (see Appendix III), was physically marked by the placement of white pillars.

Harassment and threats against those living in the disputed 1,500 hectare area as well as those living above the cliff line continued though. Even children at a local primary school within the disputed area were allegedly harassed, being told that their singing was disturbing the park animals.

Starting in 2002, a joint venture between the Uganda Land Alliance and Action Aid was undertaken in the hopes of forcing the government to fulfill its obligations to its citizens. Starting with a major media campaign headed by Action Aid, more attention was shed on the situation and things started to heat up. The government was on the defensive, trying to ignore the problem by saying that the Benet were “*mere*

encroachers” and that there was no issue. The civil society and NGO responded by calling the government’s bluff and saying, “*If there is no issue, it shouldn’t be a problem to take this issue through the legal process,*” and that’s exactly what they did (Mukhwana). In talking to Rita Achiro of the Uganda Land Alliance said she believed “*strategic litigation was the only way to secure their land rights.*” The Benet community gave their consent to have the Uganda Land Alliance act on their behalf and the ULA proceeded to sue the Attorney General and the Uganda Wildlife Authority. After a year and a half in court, the matter was settled out of court with a consent judgment on October 27th, 2005. The ruling stated four important things:

- *THAT the Benet Community residing in Benet Sub-county including those residing in Yatui Parish and Kabsekek Village of Kween County and in Kwoti Parish of Tingey County are historical and indigenous inhabitants of the said areas which were declared a Wildlife Protected Area or National Park.*
- *THAT the said Community is entitled to stay in the said areas and carry out economic and agricultural activities including developing the same undisturbed.*
- *THAT a permanent injunction does issue restraining the defendants either jointly or severally from evicting or disturbing the quiet occupation by the community of the said areas.*
- *THAT the Respondents take all steps necessary to de-gazette the said areas as a Wildlife Protected Area or National Park pursuant to this Consent Judgment, after a physical inspection of the boundary with the Benet Community.*

The legal ruling was a great success and turning point for the Benet community. The consent judgment finally allowed all 7,500 hectares to be settled in and the UWA was ordered to stop its harassment of those living in the disputed area. The biggest problem faced now was implementation of its provisions and ensuring that the UWA adhered to it, requiring that constant eye be kept on them and their actions (Mukhwana). There was also still a degree of uncertainty because while legally the Benet had been granted the

right to the land, it had yet to be de-gazetted by Parliament (and to date, still has not, though it is expected that de-gazetting will occur soon). Those living in the disputed areas still lacked land tenure security, which would be made evident in the subsequent years when the UWA acted directly against the consent judgment.

On February 5th, 2008, a Belgian tourist was murdered in Mount Elgon National Park, shot while she was on a hiking expedition (Ssempogo). Although her killers were in no way connected to the Benet community, the UWA used the opportunity to justify evicting the Yatui. Starting on February 16th, UWA officials began burning homes, leaving over 1,000 people without shelter, effectively forcing them “*to live like wild animals*” as they sought shelter in caves and under trees or, for those who were fortunate, with relatives (Kanda, “Report”).

Findings and Analysis

After gaining a better understanding of the history between the Benet community and Mount Elgon National Park, I went to Kapchorwa with the intention of discovering the effects of the most recent eviction on the Benet’s life style and what had been done by the government to address their needs. I was also interested in determining what the government was planning to do in the future and how the Benet were responding to those projected plans, if there were any.

The February evictions were viewed with suspicion by Benet community members. Many expressed the sentiment that UWA had been waiting for an excuse, and there were even murmurs of UWA officials possibly committing the murder themselves to frame the Benet. While this was unlikely, historically there are a lot of hard feelings between the Benet and UWA, and UWA in turn allegedly accused the Benet community of being responsible for the murder. A gang of six men, independent of both parties, later confessed to the murder, stating that they were looking to steal guns from a ranger patrol and that the death of the tourist was not intended (Olukya).

UWA official Johnson Masereka shared that the reason “*encroachers were evicted from Mt.Elgon National park in February 2008*” was the “*result of insecurity and threat to the ecosystem.*” Regardless of the reasoning, the evictions of February 16th,

2008 left 461 Yatui families homeless after being given two hours according to UWA orders to leave their houses before they were to be destroyed. Food stores of maize and Irish potatoes were also destroyed or stolen during the night. Families were forced to find shelter in caves, under trees in the open or in the homes of other people. In addition to their food stores being destroyed, some families reported that *“the goats, sheep and cattle left got lost and some were eaten by National Park beasts (hyenas) etc.(Chebet).”*

The registered totals of destructions and losses included 807 houses, 822 food stores, 1401 cattle with no grazing land, 1051 goats, 1014 sheep, 386 donkeys and 2787 hens (Chebet). In speaking to the headmaster of Teryet Primary School, I learned that the school had lost about 100 students to the evictions, enrollment dropping from 560 students to 457.

The Benet Lobby Group sent out a general plea for aid, attracting the attention of Food for the Hungry International (FHI), an organization operating in Piswa Parish, Benet Sub County that carries out community health and education programs, and the Samaritan Path Organization in Kampala. On March 13th, 2008 Food for the Hungry International brought 405 tarpaulins, 36,360 tablets of water guard (a supply for 404 people), 405 jerry cans and 808 blankets. The following day the items were distributed, and those who were not present to receive the supplies that day received them on March 17th. By the end of the distribution, 398 Yatui people were each given a tarp, two blankets, four packets of water guard and one jerry can. The extra items not distributed to the Yatui were given to the local needy such as the elderly and those living with disabilities. (Kanda “Report”)

But even the generosity of such organizations and the aid they provided could not change the fact that the Yatui were now landless and homeless. As one of the Yatui currently living in the temporary resettlement area told me, their only *“coping strategy was to live in caves around the base of the cliffs, to camp on other people’s land and in town centers, or go to live with relatives.”*

It would take until August, more than four months later, before the Yatui people would be temporarily resettled by the government. Uganda Wildlife Authority official Johnson Masereka shared with me the temporary resettlement process:

“The number of families affected was 408, [but] more than half of whom were non Benet (opportunistic migrants). Through a screening exercise jointly carried out with Benet local leaders, District leaders, RDC’s office and security agencies, only 171 families were found to be genuine and consequently each has been allocated land for temporary use as the same team solicits for land to permanently settle them. They are currently in Kisito, Kwozir Sub County where the Minister of Tourism, Trade and Industry recommended for their temporary settlement on 194 hectares until a permanent solution is got. Similarly, another 55 families numbering about 140 individual households were permanently resettled on 318 hectares at Amanang in Bukwo District.”

The official record of 171 families supposedly does not account for youth who had to bribe officials for a plot. In many cases, fathers would be given land and expected to divide that land among their sons, even if those sons were married and had children of their own. Such bribes ranged from 500,000 to 1,000,000 Uganda shillings. (Personal interviews) Benet community members estimate that more than 200 families were parceled out land from the 194 hectares (approximately 485 acres) families appropriated for temporary resettlement by the government. But why did the government fail to provide adequate compensation to the Yatui before they evicted them? The Uganda Wildlife Authority may have cried “encroachers” but the consent ruling of 2005 proclaimed the Yatui as indigenous inhabitants of the land. The gesture of temporary resettlement by the government was too little, too late.

In visiting the temporary resettlement area called Kisoti, I saw blue tarps adorning homes instead of flowering bushes. While some permanent houses from past inhabitants are still in use by the temporary settlers, saved from being burned unlike those homes on the western end of the cliffs, most homes can best be described as ramshackle. The size of plots are said to vary slightly, though no one I talked to had a plot larger than 3 acres. In the allocations of the plots, widows usually received around 2 acres, more than enough for a single person. But a man with two wives and a total of nine children has only been given 3 acres. Most people previously held at least five to fifteen acres when they lived above the cliffs and grew barley, maize or Irish potatoes. But here many of the temporary settlers haven’t planted anything on their plots, perhaps uncertain whether or not they will still be here come harvest time or preferring to use it as grazing land. Most

of the settlers work for others in order to earn a wage though one man had planted Irish potatoes. Most still had cows and goats, though the same man who had planted potatoes sold his four cows due to lack of adequate grazing land. No mention is made of the government fulfilling the request made in February by the LCIII chairman to “*continue feeding the Yatui parish community until their final resettlement is met and in addition to provide seeds (maize, Irish potatoes, cabbage, peas) etc* (Chebet).”

In discussing their options for resettlement, three main possibilities arise: settling among those in the disputed 7,500 ha area, settling where they are currently or moving to an area referred to as London, located within the National Park but which has been previously cultivated and developed. Opinions of those living in the temporary settlement varied widely, but the overarching desire was that their being settled would not cause further conflict. One man shared with me, “*I wish to stay in the temporary resettlement area where I am now. I am content with my three acres and don’t want to be taken into the disputed area, because it will cause conflict. But if it is a government order, I will go. I will not refuse, I have no other option.*” Another man told me, “*If government permanently resettles us, we should be taken to a vacant land where crops will do well. I would not accept resettlement in disputed area; government has no shortage of land, so they shouldn’t squeeze people.*” An older widow’s reasoning for her opinion was very practical, “*I want to go to the other area [London], not remain here in the temporary resettlement or go to the disputed area; temporary resettlement land doesn’t favor coffee, maize or bananas.*”

David Kanda, the coordinator for the Benet Lobby Group, was able to present to me the general view that had come about in Benet meeting discussions, “*The Benet would prefer that the government either de-gazette up to where they were previously before the February eviction or de-gazette the area known as London, which is located on the other side of the Kere River.*”

The same view was echoed by David Mukwhana, of the Kapchorwa Civil Society Organizations Alliance, who had worked on the 2005 court case against Uganda Wildlife Authority. The only two options to him for permanent settlement of the Yatui was to have them “*remain above the 1983 boundary line or put them beyond the Kere River.*” He didn’t think that they could be properly accommodated into the 7,500 ha area.

According to Moses Mwanga, there were three important criteria for permanent settlement land to have:

- The plots of land should be a reasonable size, adequate to keep cattle and cultivate.
- Land should be in the same geographic climate; it should also be located in a mountain climate.
- The government should de-gazette the land *officially* from the National Park.

In other words, the resettlement needs to be done properly this time around rather than repeat the mistakes of the allocation committee of 1983. A Steering Committee has been assembled to figure out how the permanent resettlement can be done best. The Committee consists of the Resident District Officer, the LCV Chairman, members of the community and civil society organizations such as Benet Lobby Group, represented by Moses Mwanga. I was able to talk with him after the Steering Committee, also known as the Benet Resettlement Task Force, met with the Uganda Wildlife Authority and find out what they had discussed.

The first step to be undertaken was to identify and photograph all those in the temporary resettlement so they could ensure that everyone was accounted for. The Uganda Wildlife Authority was in the midst of surveying the land to see who had used their position to wrongly secure land for themselves or their families, this category of people including forest staff and local politicians. The Uganda Wildlife Authority was opposed to resettling people within the London area, saying that they had already removed enough land in 1983 and did not want to remove any more land from the National Park. As it is, Johnson Masereka of UWA told me that “*the rampant settlements inside the forested area had resulted in untold land degradations leading to drying water sources and disease due to dirty water.*” Instead, UWA’s proposed solution was to remove all those persons who had received land back in 1983 who were non-Benets, including both those who had gotten land through corruption and those who had been displaced by cattle rustling, and resettle the Yatui on their plots. Their justification for taking the land of those displaced by cattle rustling was that the situation had improved in the plains. Most of these people supposedly have two homes, one here and

one there, and now that security has improved there, they can return to the plains. If individuals don't have a home back there, such as children of the original displaced persons, they might be able to get 1 to 2 acres of land. The Yatui families should then be able to receive at least 10 acres each, a good sized piece of land.

Mr. Mwanga expected a final answer to the question of permanent resettlement to come out in December. The Kapchorwa Minister of Parliament was awaiting the task force's report of the surveyed area before putting a solution to vote before Parliament. Although acknowledging that the forest staff, politicians and displaced person were not very happy with the UWA's decision, Mr. Mwanga thought that most of the Benet would be very happy with the outcome.

My experience in talking to people was slightly different. Not everyone knew that the surveying was being done or the reasons behind it. (The surveying happened to be occurring one of the days I was interviewing people in the disputed area between the 1983 and 1993 boundary lines.) The LCI Chairman of an area where people had camped immediately after the February eviction, and whose entire land holdings are within the disputed area, had not heard any mention about the Yatui being possibly resettled here, asking, "*Where will they be placed? The plots here have owners.*" While it should not negatively affect Benet such as himself, it still is important that everyone is on the same page and knows what is going on.

When I asked Mr. Twala why the Benet Lobby Group or others did not share with the people living in that area about the proposed plan to move the Yatui into it, he said, "*We don't want to tell them because we ourselves aren't sure what will happen, it is up to UWA. We don't want to tell them one thing and then have that not happen and have the people say we were deceiving them.*" Who then is responsible for sensitization and making sure everyone is aware of what is going on?

And while it is important that corruption be dealt with, and the taking back of corrupt individual's land that was unfairly gotten can be deemed just, can the same be said about taking back the land from those displaced by cattle rustling? Is the problem of land security just being pushed further down the plains, away from Mount Elgon? Are new problems simply going to be created that someone else will have to deal with?

These are essential questions for government and those responsible for the resettlement to ask themselves.

Time and time again, I saw the consequences of uncertainty. Government schools in the disputed areas lacked permanent structures, for who can blame the government for not wanting to invest in something that might end up not being able to be used? The same uncertainty makes community members wary to invest in their land and develop their community; will their homes end up being burned tomorrow and all their hard work destroyed? There is a notable lack of socio-economic development the farther one moves up the mountain away from the town of Kapchorwa. There are schools, yes, but pathetic examples of schools – not pathetic in the sense of the education being provided but in the sense of the structures and conditions in which the children must learn. Many of the roads are in poor conditions, especially after the rainy seasons. There are no health centers to be found high up in the hillsides, and according to Aggrey Kibet, the program coordinator of the Kapchorwa Civil Society Organizations Alliance, he knows of three instances where women giving birth have died as they tried to make their way down the mountain to a health clinic. Opportunities such as environmental revenue sharing programs and initiatives are in place and are available, such as the one between Mount Elgon National Park and Kapchorwa beekeepers, but often only to those who hold their land securely.

The Benet community, as a minority and a marginalized group, lack the political will for them to ensure that their rights are protected. Even though the consent judgment of 2005 was supposed to grant them the rights to the disputed 1,500 ha area, until Parliament votes to officially de-gazette that area, the land they are living on is still technically National Park land. Until this area is officially de-gazetted, the Benet community has no legal recourse if the government or the Uganda Wildlife Authority acts against the court ruling. Until then all they can do is try to make a fuss and make themselves known through advocacy and media channels.

But in the hopes of this “until then” occurring sooner rather than later, is the permanent resettlement of the Yatui being done too hastily? Is their desire to have the 1,500 ha area officially de-gazetted being exploited by the government so that the government can have the Yatui give in to the government’s best interests in the Yatui

resettlement issue? As a result of being in such a vulnerable position, they may be willing to concede to decisions which may not be in their best interest, but are at least better than their current situation.

Conclusion

The Benet's eviction from Mount Elgon National Park in February 2008 has shown, more than anything else, how uncertain of a life the Benet community is forced to lead and how that uncertainty has inhibited development. In order for the Benet to develop, it is imperative that they have clear and uncontested access to land.

It appears that the government is finally, after many years, realizing their role as duty bearers to their citizens and attempting to resolve the land issues causing uncertainty. And the government needs to do so; it is not something the Benet community can resolve by itself. As Rita Achiro of the Uganda Land Alliance said, *"They [the Benet] have done their part and raised their voices for years. It is up to the government to stand up and protect its people."*

While I was expecting the Benet to be able to solve their land problem by utilizing Uganda's legal system, I am beginning to see that a legal ruling can mean nothing if there is no political will behind it. Perhaps the fault lies with the legal system itself or the system responsible for the implementation of words into actions. Nevertheless, it is difficult to force any government to do something it does not want to do when one is part of a minority group; litigation alone is nothing without advocacy and dialogue.

Recommendations

- 1) The government should place more focus on joint conservation efforts, such as the Livelihoods and Landscape initiative whose goal is to have sustainable livelihoods utilizing land and conservation of that same land, and less focus on exclusionary methods. A national park is not an isolated place, though it may be delineated by a boundary. Therefore I recommend a more holistic approach to

conservation and the utilizing of the local community by giving them the security to be able to invest in their land; they already have the incentive to manage their land well as it is what they depend upon for survival. It is vital that the relationship between the Benet community and the Uganda Wildlife Authority officials develop beyond one of suspicion and mistrust; perhaps such a relationship could be achieved if the UWA put less focus on protection and more on conservation education.

- 2) While the Uganda Wildlife Authority finds itself in the unfortunate position of having to fix the problems that other government ministries have created, I urge them to consider how their decisions might create other problems, specifically how evicting those non-Benets displaced by cattle rustling might lead to land conflicts in the plains areas. Although such a problem might be no longer be a problem that the UWA is forced to resolve, I caution the government on the whole that ignoring a potential problem, or pushing a problem somewhere else, does not make the problem disappear but only allows it to become a much bigger problem. Somebody will eventually have to deal with it. I also recommend that UWA brainstorm and think of ways placing settlers within an area like London could actually be used to aid in soil and water conservation. And regardless of the final decision as to how the Yatui are to be permanently resettled, sensitization of all those affected by such a decision is essential.
- 3) While my previous two recommendations have focused on what the government can do, or what the government and the Benet can do together, my final recommendation places full responsibility with the Benet them selves. There is only so much land and that land has a carrying capacity, which if exceeded *will* lead to degradation. Consequently, I urge the Benet to utilize family planning. Lastly, I wish to echo sentiments Mr. Twala shared with me regarding his desire for his own children to get university educations so that he would not have to see his land divided into plots so small that they would be unable to properly support a family. Perhaps one of the most important things that the future generations of Benet can do is seek an education so that they no longer have to depend on land as their sole means of survival.

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