

## CRITICAL STORIES OF CHANGE



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### **The Benet Community of Uganda Mountains of Trouble**

A story about a community's struggles in achieving land rights, identity and recognition



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## CRITICAL STORIES OF CHANGE: THE BENET COMMUNITY OF UGANDA

### MOUNTAINS OF TROUBLE

#### **A story about a community's struggles to achieve land rights, identity, recognition and livelihood**

*What can you do when successive governments deny – and actively withdraw – your right to exist in the land of your ancestors and your birth? What can you say when no-one has the equipment to understand your relationship with your land?*

In 2004 the Benet community living on Mount Elgon in Uganda, took their government to court over their right to live and make a livelihood on the mountain of their birth. On October 27<sup>th</sup> 2005, they won a historic victory.

Hundreds of Benets made the long journey to the court house in Mbale town to hear the final outcome of their legal challenge. They came from remote settlements in the mountains and forests; they came on cycles, on tractors, in buses and on foot. They filled the court room and spilled out into the corridors and yard. In the court house, the lawyer representing them called his witnesses, and all of them rose to their feet. They were witnesses to the government's compulsory acquisition of land in a manner which called into question the Constitutional rights of the people to own land.

The Judge ruled unequivocally in their favour. His Consent Judgement and Decree stated that:

- The Benet Community is 'historical and indigenous' to the area now termed a National Park
- The Benet Community has a right to live and conduct agricultural activities in the areas where they now live.
- The areas where the Benets live should be excluded from the area termed a National Park.
- The state must take immediate steps to redress the imbalance facing the Benet Community in terms of education, health, and infrastructure.

#### **A story of repression, resistance and challenge...**

In 2000 two brothers, Stephen and Saima Chelangat were shot dead by zealous National Park rangers when they were out with other young men grazing cattle in a 'Wildlife Protected Area' on Mt. Elgon. Twenty of the animals were also killed and others were confiscated. When their father received the news of the death of his sons, he collapsed and died. The brothers' widows, no longer able to endure such hardships, abandoned the resettlement area where they were living, leaving the nine orphans with their widowed grandmother.

The Ndorobo-Benets have been chased down, raped (8 cases are cited) and killed (another 8 cases are mentioned) by representatives of the Uganda Wildlife Authority in their ancestral

lands. This is not a new story – it began with the first steps towards total dispossession begun by the colonial administration in the 1920s when Ndorobo land on Mount Elgon was grabbed by the colonial authorities and declared ‘Crown Forest’. This step was confirmed in 1936 when the land was gazetted as a ‘Forest Reserve’, allowing the colonial authorities to forbid the Ndorobo-Benets dwelling in the forest from keeping goats, and deny them any social infrastructure. In 1972 the Ndorobo were formally declared ‘encroachers’ in the Forest Reserve. They were blamed for cultivating crops in the forest, livestock rearing and for overpopulating the area. This was a significant escalation of the dispossession crusade: now the Ndorobo’s indigenous knowledge and their capacity to manage forest resources were being delegitimized as well.

In 1983, in a hurried attempt to resolve protests, the Ugandan government withdrew 6000 hectares from the Forest Reserve for resettlement of the Ndorobo. This exercise, carelessly planned and poorly executed, in fact allocated much of this land to the Sabiny, a community of immigrant settlers also dispossessed and landless after fleeing cattle rustlers on the Ngenge plains. The Sabiny were more organised than the Ndorobo and had bureaucratic power. But in addition to these skewed allocations, the resettlement area was not surveyed or demarcated before the allocation got underway. Ten years later, in 1993, the authorities formally surveyed the area and ‘discovered’ an over-allocation of 1500 hectares. Without consultation or any offer of compensation, people living on these 1500 hectares were once more declared ‘illegal’ as it was ‘moved’ back inside the newly declared National Park.

Right from the beginnings of their dispossession, the Ndorobo have pursued passive and then organised resistance. They ignored colonial ‘rules’ about goat keeping and growing food crops; they quietly resisted re-settlement exercises. In 1972, in response to government pressure regarding their agricultural activities, the Benet Lobby Group (BLG) was born to fight for their land rights, and in 1994 this group mounted fierce protests and advocacy including the delivery of a Memorandum to the government opposing the 1993 survey boundary. In 1999, the BLG went into partnership with ActionAid International Uganda (AAU) and the Uganda Land Alliance (ULA) to amplify their voices and seek wider allies.

### **ActionAid’s role: rights, local leadership and alliances**

AAU has been an influential partner in the Benet’s struggle. AAU saw this as a struggle which spoke to its newly emerging rights-based approach to social change, and as an opportunity to work in partnership around rights and towards justice. It offered support in building on the established local leadership, information on rights, and opportunities to spread the Benet’s story further through networking across Uganda and beyond. It also played a proactive role in fostering unity among the ‘Benet community’, in response to concerns that the government may have been happy to exaggerate divisions between the Ndorobo and the settlers now living in the disputed area. In January 2003, when political routes seemed to hold no further promise in reclaiming their rights, the Benets resolved to pursue a legal challenge against the UWA and the Ugandan government, bringing a new dimension to their decade-long resistance efforts. The Benet Consultative Committee offered the unified leadership for the Ndorobo and the settlers to take their case forward.

The Benet victory at the Mbale court was hailed as a great success. It showed how powerful grassroots initiatives, coupled with the partnership solidarity of rights-based NGOs, can bring about a change from marginality to entitlement for landless and vulnerable communities. And it potentially had significant implications for the strategies and struggles of minority and indigenous groups fighting for land rights and recognition elsewhere.

## **What changed? Who benefited? – The Critical Story of Change**

ActionAid's was particularly interested in this case because it appeared to be a strong precedent for work on indigenous land rights. Concerned to learn from good practice and develop work on rights and justice, the organisation decided to investigate what had changed and who had benefited through a *critical story of change* process. This process sets out to document change as a process of learning and reflection, in a context of informed participation and consensual engagement on issues.

ActionAid had thought these would be a fairly straightforward question to investigate. But the reality turned out to be far more complex than anticipated. The Ndorobo had certainly reached an important milestone in their quest for recognition from the state of Uganda, but now how were they to get their fair share from their neighbours, the settler Sabiny, with whom they had joined forces in that quest?

### **What does it mean to be 'indigenous'?**

Right from its early beginnings, the land struggle of the Ndorobo has been culturally embedded, and has helped them to retain and affirm their ethnic identity. The Ndorobo consider Mt. Elgon their traditional land: *... on which we have depended for our physical, cultural and spiritual well-being since time immemorial. In other words we have a special, deep-rooted relationship to this land ... for us the forest is a life-line which keeps alive our past, strengthens our present and safeguards our future.*

For the settlers, the government, and AAU, land is understood in more developmentalist terms, as the basis for material livelihoods. This has been the source of additional tensions between the Ndorobo and its partners. As Moses Kiptala, BCC activists, put it: *"... those people from town ... tend to think that getting social services and land certificates is all we want. When I tell them that we want even the forest air and our sacred areas, they take it lightly."*

Perhaps at some level the decision to work with a legal agenda on land rights was also born of this tension, and reflects a latent notion that an 'indigenous' identity is also backward and anti-developmental, condemning the Ndorobo to retrogressive livelihoods hunting in the forests. But had ActionAid missed something important in effectively failing to acknowledge an indigenous claim to use of the forest, which was dropped from the court case agenda? Had ActionAid made a mistake in deciding to subsume internal tensions in this alliance in the interests of legal progress? Did the ideas that the Ndorobo were really fighting for get lost on the way? These are the questions at the heart of this **Critical Story of Change**.