

# ***THE INTERNATIONAL JOURNAL OF HUMANITIES & SOCIAL STUDIES***

## **The State versus the People: Socio- Political Conflicts over Land Tenure Rights in Mt. Elgon National Park in Eastern Uganda**

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### **Abstract:**

*In many parts of the world, management of protected areas has been criticized for ignoring local communities' land tenure rights and resource use. This has in the long run led to land- related socio-political conflicts between the state and the respective local communities. Looking at the available studies, most of the scholars seem to have focused their attention to how the environment and wild life can be protected from the local communities around and near such areas. Such studies have not analyzed the conflicts between agents of the state and local communities over land tenure rights around the protected areas. Focusing on Mt. Elgon National Park in Eastern Uganda, this paper analyses the genesis of protected areas in Uganda to establish the origin of conflict over land between the local people and wildlife authorities who protect this park. The findings reveal that protectionist park policies have resulted into land tenure insecurity which has exacerbated socio- political conflicts between park officials and the local people. It further shows that these conflicts are as a result of the negative livelihood effects that have been inflicted on the local people as a result of land tenure insecurities especially at the edge of Mt. Elgon National Park in Eastern Uganda. This study concludes that unless the question of land tenure insecurity among the local people is adequately handled, conflict between the state and the people will continue to occur in this area.*

**Keywords:** State, local communities, land tenure insecurity and Socio-political conflicts

### **1. Introduction**

In many parts of the world, state management of protected areas has been criticized for ignoring local communities' land tenure rights and their need for resources from such areas (Obua, et.al, 1998). This has in the long run led to land- related conflicts between the state and the respective local communities in these areas. To begin with, the paradigm of protected area management was introduced in Africa by the British starting with South Africa in 1895 and later Kenya in 1896 (Minique and Cappolillo, 2005). This was done in the teeth of local opposition as such reserves were created without local people's consent or consideration of the historical local land-use or tenure practices. As a result, traditional activities that were carried out by the local communities in the pre-colonial period such as collecting fire wood, grazing of livestock, hunting, gathering of medicinal plants and food were negated (Himmelfarb, 2006). Central to the establishment of these protected areas was the philosophy of protectionism under which use of all resources in such areas had to be restricted (Ibid). This restrictive philosophy also tended to see people and nature as separate entities and often therefore requiring the exclusion of human communities from conservation of natural forest and wildlife. Strict protectionism was often completed with the wholesale displacement of vast number of people who depended on land and its resources (Brockington, 1952).

In Uganda, the practice of protected areas began with the signing of the Buganda Agreement in 1900 that ushered in effective control of the protectorate's land (Webster and Osmaton, 2003). Consequently, about 1500 square kilometers of forest was put under British control (Ibid). Mt. Elgon in Eastern Uganda was part of this vast area. Through a protracted process of drawing and redrawing of the boundaries, Mt. Elgon National Park was eventually established in 1992. This park covered vast areas of Bugisu and Sebei totaling 112,385 hectares of land in the present day districts of Mbale, Manafwa, Bududa, Bukwo and Kween in Eastern Uganda. Focusing on the above area, this paper therefore, analyses the genesis and development of this park to demonstrate how the process later became a source of conflict between the local communities and the park authorities who protected the park on behalf of the state. This analysis is important as it helps to situate the disputes within a broader historical framework that shows that conflicts over land are not a new development in the area (Berkhoudt, 2012:15). The main argument adduced in this paper is that the process that resulted into the creation of Mt. Elgon National Park denied local communities such as the Bagisu and the Benet-Ndorobo who had lived in this area prior to the establishment of the park, land tenure rights and other resources that they freely obtained from Mt. Elgon. That this process was characterised

by alienation of land a situation that exacerbated conflict between the state and the Bagisu, Benet-Ndorobo and other communities that live around the park. This argument is informed by the fact that whereas conservationists always tend to be very idealistic in conserving nature in accordance to their vision of the future (Berry, 2002), the local people tend to focus on their survival, which ends up into conflict. For the case of Mt. Elgon National Park, the situation was even worsened by a repeated process of drawing and redrawing of the park boundaries that was interpreted by the local communities as a deliberate policy by the park authorities to alienate their land. In other words, the boundaries on Mt. Elgon National Park were viewed by the Bagisu, Benet-Ndorobo and other communities who lived around this park as artificial political creations of governments in power aimed at denying them their ancestral land from which they derived livelihood and cultural identity.

## 2. Methodology

The study employed a qualitative methodology; relying mainly on documentary review and interviews from key informants in Bugisu and Sebei areas. The documentary review was done by analysing the existing literature and theories on protected areas in Africa focusing on how the creation of Mt. Elgon National Park have affected the Bagisu and Benet-Ndorobo who live around the Park. As a result, a number of written materials were used to gather the official information. These included news papers that constituted part of primary information, and other published works, such as journals that were used as literature and also gave a theoretical case to this paper. Interviews were conducted with key informants and experts on the issues in question. These gave their insights on land issues in the study area. The key informants included political heads in Mbale, Sironko, Kween and Bukwo Towns, clan leaders, community elders, village leaders, officers at the Ministry of Lands, Uganda Wild Authority (UWA) officials and the people who live near and around the park. These gave information on how land was acquired in this area, land ownership and tenure rights in this area, the genesis of the park from the pre-colonial period, through the colonial to the post colonial times, and the role of politics in the conflicts in Bugisu and Sebei. Given the size the Elgon area, a case of Bugisu and Sebei in Mbale, Sironko, Bududa, Kween and Bukwo Districts were selected for a detailed study. According to Yin, case study is defined as "an empirical inquiry that investigates a contemporary phenomenon within its real life context; when boundaries between phenomena and context are not clearly evident; and in which a wider source of evidence is used (Yin, 2009:23). This approach primarily supports the selection of a case with in a wider study area where in-depth contextual analysis of the study is undertaken. It is based on the assumption that the selected cases typing sections within the wider study area thus providing a basis for generalisation of the case study findings (Kumar, 2005). In this case, Bugisu and Sebei have been specifically studied and used to generalise the land situation in the Mt Elgon area. Despite the fact that some literature on the Kenyan side of Mt. Elgon have been referred to in this paper, no empirical study was carried out due to some logistical difficulties.

## 3. The Genesis and Trends of a Protected Area around Mt. Elgon

Before the area of Bugisu and Sebei was subjected to British colonial rule in the beginning of the 20<sup>th</sup> century, the Benet-Ndorobo, the Bagisu and other local communities derived their livelihood from cultural land based activities within and around the Mt. Elgon forest. Most of the community members practiced substance farming, grazing and gathering in their respective areas of settlement. The Bagisu for instance were primarily agriculturalists who also utilised some forest and grassland resources in the Bugisu side of the mountain. They also had very clear ideas about conservation of the nature around them. The people of Bugisu considered and treated a forest as a common resource with low competition between users and few mutual restrictions on the use or convenient exploitation (Nelson and Gammi, 2003). Unlike the Bagisu, the Benet-Ndorobo lived a more pastoral life in Elgon forest practicing a livelihood that involved animal keeping, hunting and gathering (Chelegant, 2015). The Benet looked at land as a communal resource that was owned collectively through clans. This means that the Bagisu had a tenure system that relatively different from the other pre-colonial communities in Mt Elgon. Land in Bugisu was held communally, but individual rights over the land had started to take root. Therefore, it was individual ownership of land under the communal protection (Simba, 1992). This is contrary to the assumption that was held by conservationists during the colonial period and in the later periods that areas designated for conservation had no history of human occupation. Instead, the evidence available shows that local people had inherited the rights to use the land and resources around them from their predecessors following their respective customs and traditions. Land was socially owned where individuals had rights to particular plots and at the same time held land collectively as a society. Unfortunately, all these were later changed by the colonial and post colonial states without any consideration of the local people's land rights and interests. Therefore the changes in the status of the forest, and associated changes in what was defined as legal resource use, greatly affected the lives of those who were living near or formerly within the forest (Dirkse, 2017:9). The outcome of such changes eventually resulted into a struggle between the local communities and the state over who had authority over land as analyzed below.

The British Colonial Forest Department took control of Mt. Elgon Forestland in 1929 and eventually finished marking its boundaries in 1936 (Scott, 1998). In 1937, a boundary line was drawn and Mt. Elgon Crown Forest was gazette under the stewardship of the Forest Department. In 1942, the Protectorate Government established paths to demarcate forest reserve in Bugisu and parts of Sebei from land for settlement and cultivation. This demarcation was based on the understanding that local people were a threat to wildlife, and therefore strong measures had to be taken to police their access to environmental resources in protected areas (Musali, 1998:80-86). The creation of Mt. Elgon Crown Forest opened the struggle between the

state and local communities. For instance, the Bagisu who did not only feel having been excluded from the forest, but were also made subject to stricter rules of using any resource in the forest (Wamimbi and Wawomola, 1980:58-75). In this case, despite the fact that the local communities were allowed to keep cows and sheep, to hunt and gather, they were not allowed to cultivate and graze goats in the Crown Forest. In 1948, as much as 115.172 hectares of land was declared as Elgon Central Forest Reserve (Simba, 1992). The British Officials argued that this was in line with the national forest policy of creating permanent forest estate adequate for protecting water supplies, preserving climate and soil conditions suitable for agriculture and supplying the needs of the people of Uganda for both then and the future (Uganda Government, 1964). This view has been rejected by Himmerfarb who instead asserts that, early conservation efforts were linked to protection of cash crop agriculture on the mountain slopes to benefit the Protectorate economy (Himmelfarb, 2012). Whatever the real reason was, in 1951, the Central Forest Reserve was gazetted as a Demarcated Protection Reserve (Synnott, 1968). While doing all these, the Bagisu, the Benet-Ndorobo and other communities living on and around Mt. Elgon were not considered by protectorate government. For instance, more restrictions were introduced; hunting was prohibited in the reserve. It is therefore noted that the initial forest management on Mt Elgon was more accommodative than in the later periods. In her analysis of the colonial archival resources, Norgrove describes that initial management approach "populist" where the forest official wanted to appease the local communities especially the Benet- Ndorobo by living them to continue staying within the reserve (Norgrove, 2002:197). However, this treatment has also been attributed to low population density and the nature of the livelihood of communities such as the Benet-Ndorobo who lived a traditional nomadic life that did not pose any threat to the forest reserve. Consequently, there was a lot of protest from the local communities in this area. Such protests were not sign of violence, but as Scott (1985) argues, they were only a weapon of the weak against presumed dispossession. The most outstanding was from the Bugisu Welfare Association (BWA). The president immediately wrote complaining about the demarcations to the Chief Secretary in the following terms;

Sir we seem to be troubling Government on the question of the demarcation of forest, but it cannot be helped, for this came directly and suddenly from the Government and did not give the Bagisu any chance of giving their views on the difficulty involved. Consequently, the people are suffering greatly as Government is now forcing them to move down; their animals are caught and killed by force; and some are imprisoned. We wonder and doubt the Government's policy in taking this unsympathetic action of driving more than 3625 people with their animals numbering to about 1825 cattle, 3771 sheep, and 3846 goats. (Uganda National Archives, 1938:2)

It is suffice to note that as a result of the above pressure from the BWA, about 20 excisions were made and 70 families living in Mbale district were issued with heritable licenses by government which allowed them to continue living and farming within the crown land which was in form of a Forest Reserve (Lang and Byakola, 2006). From the 1940s to the 1960s, there were continuous disputes, as further excisions were made and new licenses issued to control cultivation rather than evict people (Wiley, 1993). Reading plainly, one would imagine that the Protectorate Government was acting leniently to local people who were living on the land that had been declared a reserve. On the contrary, to many Bagisu peasants, the licenses issued were interpreted to mean the acknowledgement by the protectorate government that the land was for the local people and thus no one would dare take it from them. In fact, the Bagisu demanded all the land to be returned to the original owners; the Bagisu. This case demonstrates how displacement and resettlement can create new relations of production which in turn shapes how the affected individuals negotiate future political economic change. Whereas many people in Bugisu acknowledged the land they were living on to have been within the forest reserve, they used their customary knowledge to claim it as their traditionally.

When the protectorate government intensified the eviction of local people who occupied the protected land without license, many people in Bugisu rejected orders from government requiring them to leave the forest land. As if that was not enough, the Bugisu Council acting on behalf of the Bagisu in this area, insisted that the demarcated land was still property of the Bagisu under the protection of the Bugisu Native Administration (Mbale Archives, 1950). To the majority in Bugisu, the forest was not seen in terms of its products but was considered as covering land that belonged to several clans (ibid). It had been noted that the division of land between clans in Bugisu ran up from the bottom through the forest up to the top of the mountain. Taking the upper part of the mountain which had been demarcated as forest reserve was tantamount to grabbing land that belonged to the clans of Bugisu. Therefore, there emerged serious conflicts between Bugisu and the Protectorate Government. Such conflicts signified what Martinez, refers to as ecological source of conflicts. These were conflicts over access to, and control over natural resources particularly as a source of livelihood, including the cost of environmental distribution. In the case of Bugisu, the WBA pushed for the Forest Reserve to be jointly administered by the Protectorate Government and Bugisu Local Administration in trust of the Bugisu community, while the clans owned the land in the forest, a view that the Protectorate Government dismissed (Ibid, 1957). The Protectorate Government instead argued that it was the policy of the Government to develop and control the management of forest reserves which was done by the District Councils in situation;

- Where the reserves were of local value to the district concerned rather than of the protectorates wide empire
- Where the District Council was competent and willing to undertake the responsibility.

But in the case of Elgon Reserve, climate and water conservation was of value and importance not only to Bugisu and the Sebei but to the other districts around it and control therefore had to be retained by the Protectorate government (Nelson

and Gammi, 2003). This put the land in the strong hold of the state, an issue that became a source of contention between the local population and the state authorities in charge of the forest.

Just like we have seen among the Bagisu, restrictions of local people from accessing land and other resources in Mt. Elgon Forest Reserve also attracted a lot of opposition from the Benet-Ndorobo people. In addition to several kinds of opposition in different localities, the Benet in 1951 formally, sent a letter to the Government requesting for alternative land for cultivation. The intention was not to give up their forest land and homes, but to obtain additional land they could use to cultivate food. Like it was in Bugisu, the Government responded by allowing the Benet-Ndorobo people to access land in the forest reserve for cultivation. It is further noted that in 1954, when the Protectorate Government produced the first working plan, the Mt. Elgon Forest Reserve, had about 300 families living on this reserve (Nsubuga, 2013). Such settlements forced the government to come up with legislation to try and secure the land that was found in the forest reserve that had been occupied by some Bagisu and Benet-Ndorobo on the Bugisu and Sebei sides of the Park. Important to note is that most legislation centralised power over all the land and natural resources with the national state institutions (Fisher, 2002:111-141). Therefore, through colonial legislation, local people's land became colonial land without taking into consideration of the traditions and customs of such local communities (Washyaki, 2012). While most forest management policies during the colonial times reflected genuine concerns for the preservation of natural resources, little regard was given to the subsistence needs of the local people. This caused local resentment to the forest conservation programmes.

In 1968, Mt. Elgon Forest Reserve was re-gazetted as Mt. Elgon Central Forest Reserve and a new 10 year working plan was drawn aiming at protecting the forest. In this case, government owing the fact that had received a lot of petition from the Bagisu and Benet-Ndorobo communities came up with more considerate policies to the local communities in and around the forest reserve. For instance, a total of 6000 hectares was set aside from Mt. Elgon Forest Reserve in order to resettle the Bagisu and Benet-Ndorobo people who had lived in the forest for all their lives before the earlier evictions (Nsubuga, 2013). Unfortunately, the civil servants and district leaders who were in charge of distributing the 6,000 hectares among the landless Bagisu and Benet-Ndorobo people instead parcelled out the land to themselves, relatives and friends. In addition, some of the Bagisu and Benet people who managed to benefit from this land ended up selling their allotments to rich civil servants and then chose to encroach on the national park (Namakweta, 2014). Despite all these, the general narratives of spatial encroachment, eviction and resettlement, this study reveals that most people evicted were not given proper compensation and the ones who got resettled, always found themselves in infertile land like the people of Bukwo which prompted them to continue to encroach the park in search for fertile soils for cultivation. The resettlement plans were also interrupted by Amin and Obote II administration which were characterised by a complete breakdown of law and order and hence absence of formal Forest Department Management. Forest management only gained momentum again in 1989 when the government of Uganda changed the status of Mt. Elgon, this time from a Central Reserve to a Forest Park. Once again, the early 1990's marked a dramatic shift in official Uganda Wildlife Authority (UWA) policy by including more collaborative and participatory approaches (Mugisha and White, 2003:28-38). It was thought that more involvement of the local people would reduce hostilities that had developed between the people and UWA.

However, the collaboration was also short lived as most reforms that were introduced by UWA continued to exclude local and indigenous communities from any direct involvement in the creation or management of the forest park. As already indicated, the Bagisu and Benet-Ndorobo were restricted from freely accessing the land and its related resources. It is only the international community through Non Governmental Organizations that encouraged local communities to get involved in conservation plans. This was done by creating Community Protected Area Institutions to represent the interests of the people bordering a particular protected area. But again, this was largely done on the basis of state controlled institutions and laws with very little input, involvement and consideration of the local communities (Alden, 2000). Therefore, while most of the protected area management policies in the Bugisu and Sebei area reflected some concerns for the local communities, it was also evident that little or no needs of local communities were given the necessary considerations (Obua, op.cit). Most of the concessions were only made colonial administrators to reduce local resistance.

#### **4. Land Tenure Insecurity in Mt. Elgon National Park and the Resultant Conflicts in This Area**

Mt. Elgon National Park was declared a fully fledged national park in 1992 (Himmelfarb, op.cit). This came with the Uganda Wildlife Authority (UWA) taking over the responsibility of administering Mt Elgon National Park. The creation of Mt. Elgon National Park brought in a new era of confusion, as we have already noted, each change in status progressively restricted public access to protected resources and thus resulted into tenure insecurity to the local Bagisu and Benet-Ndorobo communities. The various changes particularly shaped the conflict between local communities and state authorities in form of boundary disputes that characterised the history of this area since the gazetting of Mt. Elgon National Park in 1937 (Scot, op.cit). For instance, in 1992 UWA began its responsibility with the resurveying the park boundaries. It was found out that the resettlement area which was supposed to have been 6000 hectares was in fact more than 7500. The park staff redrew the boundaries, removing 1500 hectares of land from the resettlement area and hence making about 6000 people landless as a result (Namara, 2006:39-68, Soini, 2007:27). In addition; human use of natural resources inside the park became illegal. Residents of the resettlement area felt betrayed by the new regulations.

The people who were found in the National Park came to be referred by park authorities as "encroachers". Despite the park officials' view, these communities did not look at themselves in that way but instead stressed that they had been

displaced by government in favour of a game park (Mabonga, op.cit). Eventually, the local communities, with the help of a non-governmental organisation, sued UWA as a way of opposed the whole situation of being looked at as encroachers in the forest park. For instance, supported by Action Aid and Uganda Land Alliance (ULA), the Benet-Ndorobo community filled a case against UWA and the Attorney General.<sup>1</sup>In this case, the Benet- Ndorobo community accused government of evicting them without giving them alternative land. This case was settled by a consolidated judge-approved "Consent Order and Decree" which stated that:

the Benet community residing in Benet Sub-county including those who were residing in Yatui Parish and Kabsekek Village in Kween County and in Kwoti Parish of Tingey County are historical and indigeneous inhabitants of the said areas which were declared a wild life protected areas or National Park, that it is hereby declared that the said community is entitled to stay in the said areas and carry out agricultural activities including developing the same understanding; that the Respondent take all steps necessary to de-gazette the said area as a Wildlife Protected Area or National Park pursuant to this consent judgment, after physical inspections of the boundaries with the Benet community.(High Court, Mbale)

However, UWA using government support went ahead and de-gazettean area of 1500 hectare from the local community and declared it to be part of the Mt. Elgon National Park. In addition, a task force was put in place to make sure the Bagisu and the Benet-Ndorobo who had settled in area of the park that was outside the 6000 hectares left the forest park through evictions.Consequently, the Yatui Benet and some Bagisu communities were violently evicted by UWA in the years that followed (Namakweta, op.cit).

Therefore, the declarations of Mt. Elgon areas as a National Park in 1992 meant that some communities had to be expelled from the newly protected territory which in some cases involved involuntary resettlement. For instance, in Bugisu, about 800 household who were declared encroachers by the park officials in Buraba Village, Bulucheke sub-county, Mbale District on the Mt. Elgon Forest Reserve protested against eviction by the Task Force demanding the surveyors to re-survey the park. Generally, both the villagers and local government officials vehemently protested the new boundaries, eventually securing a Parliamentary Order calling on UWA not to forcibly relocate any resident until the dispute was resolved(Washyaki, op.cit).The people who were supposed to be resettled argued that, their settlements in this area had dated as far as back in 1936 when the government gazette land in this area and granted permits to their ancestors to live in after experiencing a land slide in their original place (Wandeba, 1992).This clearly shows that the land that the Bagisu and the Benet-Ndorobo claimed to be theirs was part of what had been gazetted by the Protectorate Government in 1926 as Forest Reserve but allowed people to settle there on permit. Such people later thought the land had been given to them and did not understand why they were being evicted by the park officials.

To make matters worse, the area surrounding the park had a high population density and farmers had little or no choice other than to keep going back into the park to utilise the land that they looked at as being redundant. The occupation of park land by local people in some instances resulted into fights between such people and park officials. The government through a fund from United Nations International Children Education Fund bought land from some affected communities as way of solving this dilemma in the park area. It was hoped that the money given to such people through this programme would be used to buy arable land elsewhere. As it turned out, the act of buying land from local community did not answer the question of scarcity of land in these areas. It only acted as a temporary solution as the same people took the money but continued to claim or use the land in the National Park. The demarcation of Mt. Elgon as National Park had appalling socio-cultural and economic consequences to such people as they lost their property rights and also disorganised their long created social life (Phillips, 2004).The local people around Mt. Elgon National Park were disempowered by their erstwhile control over land and resources that were taken over by the state authorities or its agents. The local communities thus lost their traditional land tenure rights and where forced to have limited access to valuable resources in the National Park that they used to have under the previous customary system. The command and control approach by the state authorities therefore created conflict and animosity between the local people around the protected areas of Mt Elgon National Park Authorities (Namara, op.cit). For the case of Burab; one of the areas of conflict, the Forest Task Force was criticised of having burnt people's houses and destroyed their banana plantations (Wandeba, op.cit).This left the local residents without shelter and food. The desperate victims, who did not have where to go, resorted to staying in the nearby caves(Wambedde, op.cit).This in fact made the people who lived near the park more hostile to park official and eventually made it difficult for park officials to manage the park. The victims who still maintained that the land in question belonged to them even dragged Mt. Elgon National Park to court in protest of the eviction (Ibid).

More interestingly, there was accusation against management of Mt. Elgon Game Park by the Bagisu community in the area for having encroached on Bugisu land. The Bagisu in many these areas claimed that the National Park Authorities had extended their activities beyond the forest boundary line. A case in point was in Busai Parish, Bududa Sub-County (in the now Bududa District) where locals protested against the Park having encroached onto their land. In this case, the people accused

<sup>1</sup>The details of these are found in "Indigeneous People in Uganda: A Review of Human Situation of the Batwa and the Benet People and Pastoralist Communities"

'corrupt' surveyors who were demanding for colossal sums of money from people to exclude their land from the National Park. That those who did not have the money, their ancestral land was included in the park (Mbale Archives, 1995). When the forest officials insisted on the evictions, the local people living in the villages of Bukuwa, Shikulu and Bubita in Bududa district showed their sentiments by setting sections of protected areas ablaze and poisoning wild life. Protected area managers retaliated to this by arresting and shooting some of the local people in the process. This conflict has kept on recurring time and again.

In addition, there was a struggle between the Mt. Elgon National Park Authorities and people in Bugisu who claim that they had given their land to the Forest Reserve for temporary planting of artificial forests. One of such cases was in Bukyambi Parish in Busulani Sub-County, Sironko District where a group of people claimed ownership of land near Nakiwondwe Trading Centre. These in their memorandum to the District Executive Secretary stated that;

Mosquitoes from the swamp area caused a lot of malaria problems in Budadiri Dispensary, so in 1942 there was mutual understanding between the District Commissioner and the owners of the swampy area to plant eucalyptus trees to drain stagnant water because the drainage system done by the land owners had failed. The agreement was that Local Government Administration plants trees in this land for ten years, after which the forest and the land would be given back to the land owners. Until now this land has never been returned... (Ibid)

The above case resonates well with the view that there was growing scarcity of land in Bugisu as a result of the ever growing population. It is not surprising that matters that had their origins in 1942 only became serious in the 1990s. One of the explanations to this is that, this was the area which was experiencing high growth rates of 3.7 percent per annum and thus people were looking for extra land for use. It also shows that land matters are some time cross generational. They keep reoccurring so long as the source of the problem is not solved properly.

Therefore, protectionist policies by state agencies resulted into conflict over land tenure in areas around Mt. Elgon National Park at different time taking different shapes. Throughout the interviews with local people in this area, government officials were accused of restricting the local people from accessing land and natural resources in the park. The local people in the area contested the fundamental power relations that determine access and use rights of land within and around the park. The imposition of new tenural systems brought with it an imposition of new social relations of power and control. In this case, the major sources of conflicts were boundaries that were contested between the UWA officials and the local people who are seen as encroachers in the protected areas. According to Himmelfarb, power and governance are part and parcel of the construction of such boundaries and therefore have a long history of state- subject conflicts (Himmelfarb, op.cit). Over 1000 families-an average population of 10,000 people in Wanale Sub- County in Mbale district put up a big protest against evictions after Mt. Elgon National park rangers decided to re-demarcate the park boundaries which were extended three kilometers into local residents land in June 2001 (Wetaka, 2001). The old boundary had eucalyptus trees which had grown to a height of 5.9 meters. However, the park officials claimed that the old boundary was planted inside the park land after the local residents bribed the surveyors (Wambedde, op.cit). The Bagisu community in these areas, maintain that this land was handed over to them by their ancestors as early as 1940s. The removing of such people from the park has always involved some violence from the park rangers and sometimes involving army. Therefore, in Bugisu and Sebei, mapping and remapping of boundaries have been key causes of conflicts between the local community and park managers in the areas of Bubita, Nametsi, Mabono and Bushiyi in Bulucheke sub-counties in Bududa district; Busulani, Bulyasa and Bufumbo in Sironko district; Mayenze in Mbale district, Buganyanya in Bulambuli district. In addition to the economic resources, protectionist policies in Mt. Elgon National Park have also gravely affected the social and cultural fabric of the areas. For instance, the Wagagai peak (4321m) of Mt Elgon is said to have been named after the legendary wife of the father of the Bagisu; Masaba (Mabonga, 2014). This means that the mountain has a cultural significance to the local communities. Therefore, the tradition of this people is under serious threat as the locals are now required to pay Uganda an entrance fee to access this cultural symbol now enclosed in the protected area.

##### **5. The Law versus the Tenure Rights of Local Communities**

Much of the land conflicts experienced between the local communities and the state in protected areas are rooted in laws governing the exploitation of resources and lack of accountability over the allocation and regulation of state sanctioned extraction rights (Nelson and Gammi, op.cit). Most of the disagreements were as a result of interpretation and application of the law and policy formulation processes that didnot favour the local communities in the area. The case in point is the Wild Life Law in Uganda which did not provide for compensation for damages done to crops by animals/livestock or human injury or death. Communities around protected areas such as Bagisu and Benet-Ndorobo frequently complained of pests such as monkeys and baboons that destroyed their crops with little assistance offered by conservation stewards towards the mitigation of crop raids and losses (Hill, 2000). Despite the fact that, damage of property by wildlife was one of the most widespread and signifying problems faced by frontline Bagisu and Benetcommunities living next to the Mt Elgon National Park, the wild life policy tended to focus on protecting wildlife, with limited consideration of the impact that wildlife caused on the local communities. Consequently, local people could not take actions against UWA since the statute defined UWA as an agency managing wild animal on behalf of the people of Uganda. This forced the local communities to resort to underhand method of killing the wild animals and setting the forests ablaze (Okot, 2014). The park officials retaliated to the actions of the local by arresting and or in extreme case shooting some of the local people. For instance, in 2002 UWA reported that

unknown people had destroyed more than 500 meters of the park boundaries in Zesui sub-county, Sironko district (The New Vision, 2002). In July 2003 five people were sentenced to death for killing a ranger and a labourer in Sironko district. Thus crop raiding is a source of conflict between conservation stewards and local communities. The stewards think that wild life more important than people living on the land they clearly consider their own.

The study also established that the conflict on tenure rights within and around Mt. Elgon National Park was also fuelled by local and national politics. During political campaigns, evictions and the relations between the park authority and the assumed 'encroachers' were often trivialised to arouse people's emotions in the voting. In this case, the politicians kept on promising the population on how the land occupied by the protected areas was supposed to be under the ownership of the local communities such as the Bagisu, and the Sabiny. These emphasized their point by conveniently quoting the law which gave absolute ownership of the land to the people of Uganda. Both the local and national politicians heavily relied on the conflict between the local people and the park officials to campaign during election. These promised and incited the people not to leave the alleged park land. Some local politicians argued that the people could only leave the park areas after compensation for their land in accordance to the law. The intensification of conflict was also done by politicians who campaigned for degazettement of the park and give it to local people for settlement (Mabonga, 2014). These further argued that with a rapid increasing population there was an acute land shortage and the national park was seen as the only area of possible expansion for agriculture. Such agitations made the local people not to appreciate why such large sizes of land was left for conservation. Therefore, as soils deteriorated because of continuous cultivation and poor management, poverty, famine intensified and the resulted was a general civil strife by local people such as the Bagisu and the Benet who rose against park authorities (Musali, 1998:80-86).

Attempts to deal with conflicts associated with land tenure rights between the authorities managing Mt. Elgon National Park and the local people in Bugisu and Sebei were put place resulting into the establishment of a Collaborative Forest Management. This approach was proposed with aim of exploring opportunities to involve local people in natural resource management and make use of their dependence on the forest as a basis for maintaining their interest in its conservation (Hinchley, 1998). Two collaborative management agreements were negotiated and a memorandum of understanding between the Uganda Wildlife Authority and the Forest Management Committee representing the local community was signed in 1996. This agreement allowed the local communities to access some forest resources without any restrictions and use of other resources<sup>2</sup> on restricted or seasonal basis. It was also agreed to ban pit sowing, charcoal burning, hunting, pole harvesting and agricultural cultivation in the park (Hinchley, et.al, 2000). Despite the fact that this collaborative arrangement led to slight improvement in the relations between the park authorities and some communities especially in the two pilot parishes, it did not completely resolved the land tenure insecurities among the local communities. The collaborative management arrangement has for instance not provided solutions to the problems such as wild animals from the park destroying crops and gardens of the people living near the park. This means that conflicts have continued between the park officials and local communities in areas of Bugisu and Sebei around Mt. Elgon National Park.

## 6. Conclusion

The analysis in this paper therefore builds on the post- structuralism theory to try and deconstruct the western myths of science of truth and rationality. (Escobar, 1996) The proponents of this theory reflects more on socio- culturally embedded analysis of nature that is concerned with knowledge-power, institutions, and regimes of truth and cultural differences (Kidner, 2001). The analysis of the conflict between the people of Bugisu and Benet-Ndorobo on one side and the state authorities that manage Mt. Elgon National Park on the other, therefore makes an important contribution to the post-structuralism discourse by looking at how protecting nature in Mt. Elgon national park undermined the livelihood of the local people in Bugisu, Sebei and the neighboring areas. It also blends the realist's biophysical predictions with social and political constructions, integrating political ecology with discussion arising from the construction of science. For instance, the social movement perspectives propounded by scholars like Escobar who considers those movements that explicitly construct a political strategy for the defense of territory, culture or identity that is linked to a particular society (Escobar, 1998:53-82). The conflict between the local people in Bugisu, Sebei and the protected area authorities enact a cultural politics that is mediated by the ecological considerations (Ibid). This resonates with most recent studies<sup>3</sup> that show that the way local communities in the third world understand nature is quite different from the modern construct of protectionism. To most local communities, there is no separation between biophysical, human and supernatural world which leads to conflict with state apparatus which in most cases propagate capitalist ideologists. Property in land is thus a coefficient that binds relation between individuals in society. The significance of this is that land as a source of political power, probably more than anything else, accounts for the resurgence of the question of land ownership in many countries in Africa (Okoth-Okendo, 1989:9). Thus, for the areas around Mt. Elgon National Park, conflict is a result of social structures and antagonistic relations between park management officials and local peasants who have settled in these areas for a longtime but have now been rendered landless. The analysis in this paper also shows that conflict is also punctuated by the struggle for preservation of identity and social justice. Often times it is

<sup>2</sup>Such resources included, firewood, wild vegetable, fodder, honey and circumcision sticks

<sup>3</sup> For instance see, Kristen W. Painemilla, et.al, "Indigenous People's and Conservation from Rights to Resource Management, Conservation International, 2011

manifested in hatred, violence and acts of dehumanisation. Such conflict grows out of rivalries, misconceptions and inequalities in economics, politics and general allocation of resources (Afzalur, 2002). At the local level, land scarcity affects land access, security of tenure, land use and distribution. Nevertheless, this scarcity must be assessed from within the larger regional and national contexts of tenure reforms and development policies that reinforce deferential access to power among social groups.

In conclusion, this study clearly shows that there is land tenure insecurity related conflict between the state and the local people in the protected areas of Mt. Elgon National Park. The loss of rights to access land or use of the resources in Mt. Elgon National Park, and the devastating effects on the livelihood of the local people, there is no option left to the people but to resist the wild life protection policy. In recent times, most approaches on protected areas have argued for a human-centered conceptualisation of tenure rights where there is a push for cooperation and inclusion of the local people in the management of such areas for the benefit of all the people concerned. However, evidence from this study shows that the conflicts in Mt. Elgon and other protected areas in Uganda are not about management. They are mainly concerned with ownership and tenure security of the land within and around such areas. Therefore, unless the question of land tenure insecurity among the local people is adequately handled, conflict between the state and the people will continue to occur in this area.

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