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RESIST, ENGAGE, CHANGE

The 20-year long fight of the Kaweri community to receive compensation after being evicted from their land in Uganda.

SEPTEMBER 2020

5 YEARS

ActionAid's Fair, Green
and Global programme:
highlights and lessons
learned from 8 countries

‘WHY CORPORATE
ACCOUNTABILITY
MATTERS FOR HUMAN
RIGHTS AND WOMEN’S
LIVES EVERYWHERE’

Bangladesh • Cambodia • Kenya • Mozambique • Netherlands • **Uganda** • Zambia • Zimbabwe



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MAGAZINE

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INTRODUCTION

In the last decade there has been increased attention for the adverse impact of global trade and corporate conduct on the full realisation of human rights, gender equality and the Sustainable Development Goals.

For many people around the world, global trade and the influx of foreign interest and investment in their countries has meant displacement from their lands, pollution of water and air and human rights abuses. The imbalance of power between communities living in poverty and the multinational corporations taking their land and polluting their water is often stark. Governments oftentimes stand powerless against the might and riches of these corporations. A lack of international legislation to regulate increasingly complex supply chains means these human rights violations by corporations are met with absolute impunity, as they hide behind complex company structures to avoid the consequences for their actions.

The adverse economic and social consequences of the current global economic system are felt, first and foremost, by those who are most marginalised. In particular, they disproportionately affect women. When land is grabbed and families are displaced, for example to make room for a sugarcane plantation or mining activities as we will see in later chapters, it is women who bear the responsibility of sustaining their families and themselves. When tax revenue in developing countries is siphoned off by multinationals' aggressive tax planning and the lenient tax structures of tax havens, leaving less government income available for public services, it is women who take on invisible unpaid care and domestic work.

Governments around the world have made strong commitments to the 2030 Sustainable Development Goals agenda, and to upholding human rights and gender equality. International and national efforts have been made to better regulate corporate conduct and gain insights into corporates' complex and opaque value chains. These efforts have led to the unanimous adoption of standards such as the United Nation's Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises, clarifying the role of governments to protect human rights and those of businesses to respect human rights.



FOR MILLIONS OF PEOPLE, HUMAN RIGHTS VIOLATIONS REMAIN EVERYDAY ISSUES THAT REQUIRE STRUCTURAL SOLUTIONS.

However, for millions of people around the world, corporate human rights violations remain tangible, everyday issues that require structural, long-term solutions. Therefore, the need of communities to be able to resist remains as urgent as ever. In order to realise the Sustainable Development Goals, a strong, international regulatory framework is needed to bridge the governance gap and grant those affected an instrument to finally hold corporations to account and demand justice from their governments.



BY STRENGTHENING COMMUNITIES' CAPACITY AND KNOWLEDGE ON THEIR SOCIO-ECONOMIC RIGHTS, THEY GAIN THE RESILIENCE TO DEMAND A BETTER PRESENT AND EVEN BETTER FUTURE.

ActionAid has seen, over the last 10 years of being part of the Fair, Green and Global Alliance, that when women and communities take matters into their own hands, they can make great gains towards improved corporate conduct and the protection of human rights. By strengthening communities' capacity and knowledge on their socio-economic rights, they gain the resilience to demand a better present and even better future. By supporting communities with obtaining the tools and backing they need to engage in lobby and advocacy strategies, affected communities can fight injustices by holding governments and corporations accountable. The support of the Dutch Ministry of Foreign Affairs to fund and partner on this essential work has been an important asset, to ActionAid and to the communities we serve.

The following pages focus on Uganda, one of the eight countries in which ActionAid has implemented the Fair, Green and Global programme. The report delves into one case study that portrays the ways in which women and their communities, supported by ActionAid and its partner organisations, have addressed corporate human rights violations.

BOX 1: THE FAIR, GREEN AND GLOBAL ALLIANCE: DIALOGUE AND DISSENT PARTNERSHIP WITH THE DUTCH MINISTRY OF FOREIGN AFFAIRS

Since 2010, ActionAid has been one of six member organisations of the Fair, Green and Global Alliance. ActionAid works together with more than 300 CSOs all over the world to build socially just, inclusive and environmentally sustainable societies. Women's rights are central to all our work. In January 2016, ActionAid began its second five-year programme under the 'Dialogue and Dissent' framework, a strategic partnership with the Dutch Ministry of Foreign Affairs. Within this framework, ActionAid and the other members have worked relentlessly to increase the voice of civil society and strengthen the resilience of communities, their organisations and movements. When addressing poverty and inequality, the Fair, Green and Global Alliance focuses on three interlinked areas of work: **1.** Improved corporate conduct **2.** Improved trade and investment and **3.** Improved tax and financial systems. Corporate accountability plays a pivotal role at the core of these three areas of work.

UGANDA

Over the past few years Uganda's national context has seen some worrying changes. The political situation has become more repressive, severely shrinking an already limited civic space. The Ugandan government has actively created a rather hostile environment for both vulnerable communities and NGOs. In 2017, it approved a constitutional amendment to raise the age limit for the president, hence extending the current president's ability to be in power beyond the age of 75 – making him eligible to stand for the 2021 elections. In 2017, there was also a proposal for a constitutional amendment to the effect that the government can legally displace communities anywhere in the country without prior payment of fair and adequate compensation. This move was averted in September 2018 following public outcry and campaigns by ActionAid and others.



**KAWERI COFFEE PLANTATION:
LITIGATION, LOBBY & ADVOCACY
TOWARDS NATIONAL AND
INTERNATIONAL POLICY MAKERS**



THOSE WHO SPEAK OUT, SUCH AS (WOMEN) HUMAN RIGHTS DEFENDERS, OFTEN FACE INTIMIDATION AND THREATS FROM THE AUTHORITIES.

Those who speak out, such as (women) human rights defenders often face intimidation and threats from the authorities. NGOs such as ActionAid that try to address the repression have been labelled as likely enemies of progress and, thus, the state. At the same time, corporates have taken full advantage of the situation and, using governmental protection as a legal shield, have acted undisturbed in their business as usual, seizing land from communities without their consent and without awarding any compensation.

In Uganda, the work of ActionAid, like other NGOs, has become more and more challenging. During stage II of the Fair, Green and Global Alliance, ActionAid's offices have been raided by military personnel, accounts frozen and assets confiscated more than once, leading to several stoppages in project implementation. In a sense, our work in the country has become increasingly challenging and, at the same time, increasingly resilient and important. Over these last five years, our colleagues in Uganda have never stopped in their battle to resist corporate and government land grabbing, despite the real risk of ending up in detention.

The Kaweri case, discussed below, is one proof among many of the strength of non-violent activism and community empowerment against injustice. From day one, when the government decided to sequester the land of hundreds of families to make space for a German-owned coffee plantation, ActionAid has been there, giving the affected community tools and support to fight for themselves and their homes. The struggle has not yet come to an end. Nonetheless, the situation has largely improved, and families have been promised, after almost two decades, due compensation.



THE KAWERI COFFEE PLANTATION

Twenty years after being forcibly evicted by the national army for a German-owned coffee plantation, the Kaweri community in Uganda obtains justice.

FACTS & FIGURES

- **Number affected:** 4,000 individuals, 2,000 of whom filed a complaint
- **Impact:** loss of land, livelihoods, absolute poverty, displacement, arbitrary detentions, premature deaths
- **Type of company/sector:** coffee plantation, agro-industrial sector
- **Strategy applied:** knowledge exchange between communities, support during public litigation cases, lobby and advocacy towards public officials
- **Current status:** compensation is promised by the Attorney General

WHAT HAPPENED AND WHY?

In August 2001, 401 families (about 2,000 people) from four villages in Mubende district were violently evicted from their land by the Ugandan state army. Their houses, schools, crops together with the health centre and a borehole were destroyed in the process. The families were evicted from the 2,524 hectares of land they had been living on for years because Kaweri Coffee Plantation Ltd, a subsidiary of the German-owned Neumann Kaffee Groupe, had leased the land from the Uganda Investment Authority to grow coffee. Following the eviction, the community saw an increase in illnesses and deaths, as most people were prevented from accessing enough food, shelter, clean water and healthcare. In August 2002, the community sued the government of Uganda and the company. The case was however delayed at the High Court for 11 years, engulfing the community in a legal battle lasting many, many years. ActionAid supported the community throughout, and finally in 2019, witnessed a major success when the community was finally awarded compensation for the struggles they have endured.

IMPACT ON THE COMMUNITY

- The first violations occurred when the community was evicted and their land grabbed by the Ugandan armed forces, the Uganda People's Defence Force. People were threatened and forced to leave at gunpoint, many were beaten in the process. Homes were set on fire and demolished and life-sustaining crops were destroyed.



- Over the years the community has faced homelessness, poverty, hunger, illness and arbitrary detention. This dire situation has led most people to live in the nearby bush for an extended period, with no access to food or clean water.
- Women saw increased domestic violence due to the poverty and lack of food, as men struggled to fend for their families.
- Those who were most vulnerable and in need of constant care, such as the elderly and infants, have faced and encountered death.
- Some families were not able to stay together as they were forced to settle all over Uganda.

STRATEGY AND RESULTS

ActionAid Uganda has stood from the very beginning with the affected community, supporting them in their legal battle to seek reparative justice. Community members were trained on advocacy skills, and ActionAid encouraged community leaders not to give up, despite the long and difficult journey. ActionAid also fostered exchange programmes between the Kaweri and other affected communities to enhance knowledge exchange, including on strategies.

In 2002 the community filed a criminal complaint against the Ugandan government and Kaweri Coffee Plantation Ltd, to demand legal redress for the destruction and damage brought by the land grab and evictions. The criminal case cited the severe human rights violations against the community and demanded an independent land survey to determine the land's real ownership, the restitution of their land, or adequate compensation. After several delays, the High Court of Uganda started hearing the case in July 2003.

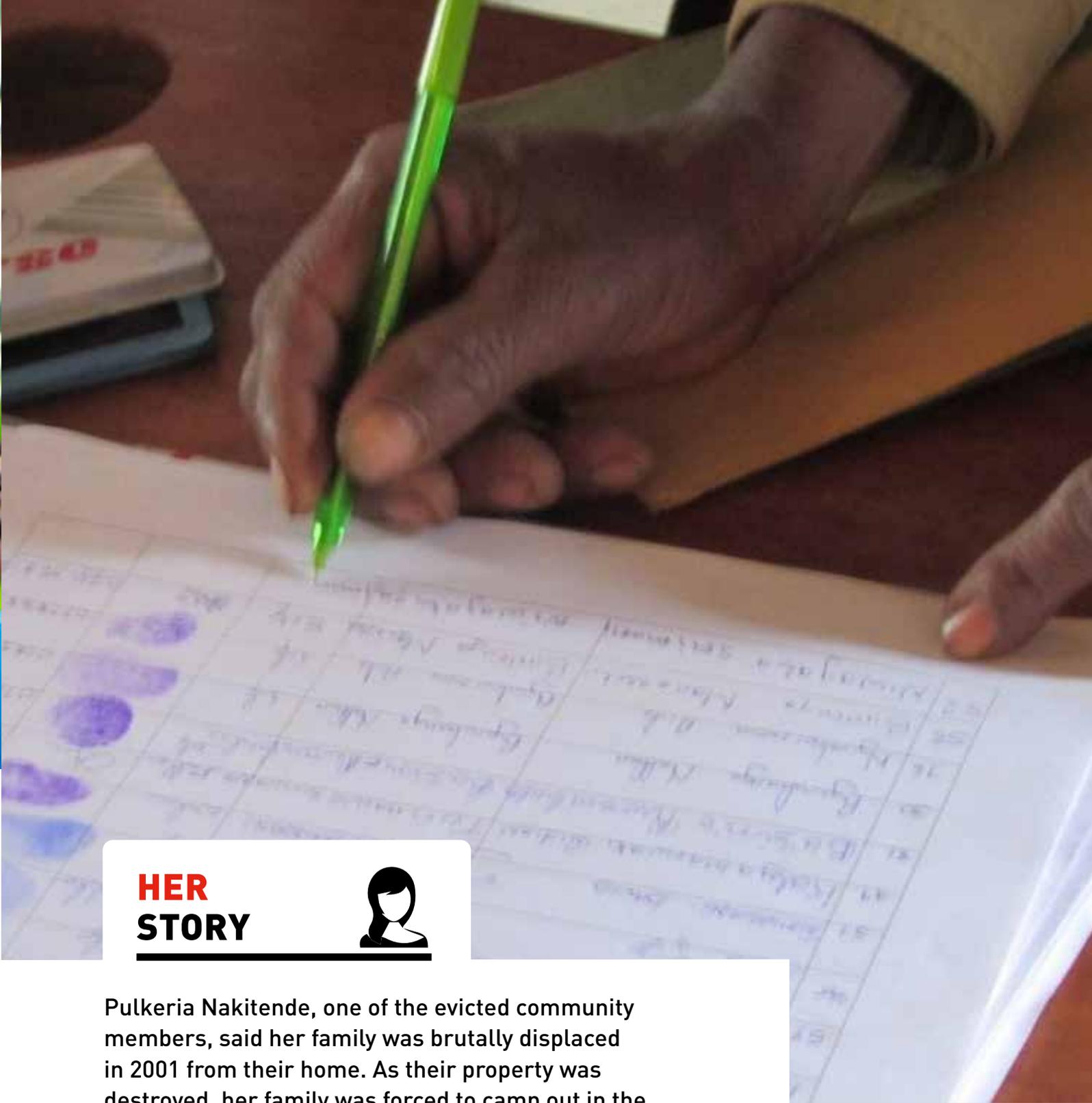
Accessing the available judicial mechanisms was not easy for affected community members, most of whom live hours away from Kampala, where the High Court is situated. When the community was required to appear in court, ActionAid provided transport to enable them to attend, alongside other strategies such as keeping the violations in the media spotlight, and advocacy with different national and international bodies, including the UN Human Rights Council and the UN Committee on Economic, Social and Cultural Rights.



- The case was delayed at the High Court for 10 years. Finally, in February 2013 the judge set a date for the final hearing. Neither the company nor the Ugandan government attended. In March 2013, the judge ruled that the community had been illegally evicted without adequate compensation. He ordered compensation equivalent to €11 million to be paid to the evictees. The judgement, however, acquitted both the government and Neumann Kaffee Gruppe. The compensation is thus imposed on the Ugandan Investment Authority's lawyers for allegedly misadvising the government on purchasing the land. Consequently, the company's lawyers appealed the verdict. In April 2013 the Court of Appeal provisionally suspended execution of the judgement, and in July 2015 it ordered a retrial at the High Court.

Throughout the judicial handling of the case, the community sought to apply additional pressure in order to come to a resolution, and thus lobbied various decision-makers. As such, they wrote, via the minister of state for Kampala, to President Museveni to ask for his support. Eventually, following sustained engagement, on July 1, 2019, the High Court ordered mediation, in order to bring the long court battle to an end. Initially, the Ugandan government refused to pay the full amount the community asked for.³³ Yet, on December 13 of the same year, in an unexpected turn of events, the government offered UGX 3,814,570,050 (€918,148) for special damages in a full and final settlement, plus UGX 150 million (€36,104) as costs of the court proceedings.³⁴ The news of the offer was received with excitement among the 401 families, many of whom were growing old and more disillusioned and had feared that their efforts to seek justice had been in vain.

- By February 2020, 325 of the 401 evicted households had signed consent forms accepting the compensation. Efforts to get the remaining signatures are ongoing, as many of the evictees have long left the area. Others have died during the 19-year long struggle and, as such, their families are struggling to appoint representatives to obtain consent and eventually receive the sum owed. ActionAid Uganda, together with its partner Network of Public Interest Lawyers, continues to offer guidance to the Kaweri community so that everyone receives adequate compensation. ActionAid continues its advocacy towards the Ugandan government, as it is critical that the remaining members receive compensation in a timely manner.



**HER
STORY**



Pulkeria Nakitende, one of the evicted community members, said her family was brutally displaced in 2001 from their home. As their property was destroyed, her family was forced to camp out in the bush. Pulkeria reported losing some of their loved ones due to widespread malaria and lack of access to medical facilities.

Until a few months ago, she expressed concern over the delayed compensation. She, like many others, had to wait almost 20 years and saw her livelihood dramatically compromised. She expressed gratitude for ActionAid's continuous involvement with and support for her community. After the long struggle, she believes that, in the future, the government should consider compensating community members before evicting them from their homeland.

TIMELINE

2001
August

The Ugandan military evicts **401 families** from their homeland to pave way for a coffee plantation owned by Neumann Kaffee Groupe.

2005
January

Human rights defender **Peter Kayirra**, speaker and leader of the evicted community is arrested by the Ugandan authorities under the pretence of misappropriation of funds. He is freed six months later.

2013
March

The High Court awards **compensation** of €11 million to approximately 2,000 plaintiffs but the Ugandan government appeals the verdict'

2015
January

Anna Nadyose Katende, supported by the evictees' lawyers, states that the **company is occupying** her piece of land, annexed illegally to the land already occupied by Kaweri Coffee Plantation Ltd.

2017
February

The United Nations Committee on the Elimination of all Discrimination Against Women (CEDAW) addresses Germany's extra-territorial state obligations to regulate the operations of German companies abroad, and to **grant victims of human rights violations access** to remedies in Germany.

2019
July

The High Court orders **mediation** between the parties.

2002
August

The community files a **lawsuit** against Kaweri Coffee Plantation Ltd and the Attorney General.

2008
February

The request of **Kaweri Coffee Plantation Ltd.** to be removed from the case as accused party is denied by the judge'

2017
January

The Minister of State for Kampala presents an offer of an **out-of-court-settlement** that would prevent the evictees from claiming their land back and engaging in further legal actions.

2019
June

The evictees change lawyers and are now **represented** by the Ugandan Network of Public Interest Lawyers.

2019
December

The Ugandan government finally agrees to pay **compensation**, after an initial refusal to do so.



LESSONS LEARNED

The very foundation of success has been the community and their persistence. ActionAid supported members in their inspiring resilience. The long-lasting Kaweri case is one among many cases of which ActionAid is rightfully proud. In Uganda, ActionAid will continue to support whoever is marginalised by corporate abuse.

ActionAid has advised and counselled the community on how to handle the process in the best way possible and promoted unity within the community. Throughout the years, ActionAid has supported the community on all grounds. We have made it possible for plaintiffs to attend court sessions, making connections with lawyers and facilitating engagement. Crucially, ActionAid assisted the Kaweri community in the documentation process, which was essential to success in court.

The community's efforts have finally paid off and, with our continued pressure and collaboration, we hope to see everyone compensated by the end of 2020.

Importantly, the Kaweri case and its setbacks will continue to inform ActionAid's future strategies. A crucial component to success has been the criticality of contextual differences: different communities require different approaches, in relation to the environment in which they find themselves. Other fundamental elements have been in-depth engagement with pro-bono lawyers, open communication with relevant stakeholders, and joint collaborations with partners such as national and international CSOs.

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