

Submission to the UN Office of the High Commissioner for Human Rights for the consideration of the Universal Periodic Review of the Republic of Rwanda during the 23rd Session

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I. Introduction

This report, submitted by the Unrepresented Nations and Peoples Organization (UNPO) on the occasion of the 23rd session of the Universal Periodic Review, during which the Republic of Rwanda is under consideration, will focus on the human rights violations occurring in the country, with a special emphasis on the situation of the Batwa indigenous group. First, the report will open with a brief introduction to the Batwa. Second, it will outline the main human rights violations taking place in Rwanda in the context of the international human rights treaties it has signed and ratified, with a particular focus on the violations suffered by the Batwa. Lastly, it will present a series of recommendations to facilitate the discussions during the 23rd Session.

II. Batwa

The Batwa, also called Twa or Pygmies of Central Africa, are an indigenous people living across the borders of the Democratic Republic of Congo, Uganda, Burundi and Rwanda. Their territory expands over 100,000 square kilometres. They traditionally inhabited the mountainous forested areas around Lake Kivu and Lake Edward in the Great Lakes Region. However, since their eviction following the arrival of arable farmers and cattle keepers who started cultivating a big part of their land several centuries ago, they migrated to various rural areas.

The name "Batwa" derives from the term "Twa", used in the Bantu languages of most sub-Saharan Africa to designate hunter-gatherers or former hunter-gatherers, who are recognized as the original inhabitants of their area with a very low social status. The term "Mutwa" refers to one person, while "Batwa" designates the people.

The Batwa are estimated to number between 86,000 and 112,000, among which between 33,000 and 35,000 live in Rwanda. These are estimations, since Rwanda has legally banned data collection on the ethnic composition of its population. The Batwa are one of the three ethnic groups living in Rwanda, the two others being the Hutus and the Tutsis. It is estimated that the Batwa represent 0.4% of the population.

The Rwandan Batwa live scattered in small communities, at the periphery of small and medium-sized towns. They have experienced a sharp drop of their population size due to discrimination, extreme poverty and lack of access to healthcare. From 1978 to 1991, the number of Batwa decreased by 40%, despite the national average population growth of about 50%. The Batwa constitute the most disadvantaged and vulnerable group in Rwanda.

III. Human Rights Issues

The 1994 genocide has led the Rwandan Government to put a ban on ethnic identification. This policy affects all areas of the Batwa's lives and leads to the denial of their existence as a separate community and of their most fundamental human rights. The Batwa also suffer from land grabbing, leading both to an infringement of their cultural rights – their culture being closely linked to their environment – and to economic dependency and impoverishment. Discrimination against the Batwa is both societal and Governmental, as the Batwa are absent from decision-making and governing structures, debilitating their ability to influence policy.

a. Land Grabbing

As a result of the creation of national parks and economic development, particularly in the 1970s and 1980s, the Batwa were displaced from their lands without compensation, making them the poorest and most marginalized community of Rwandan society. After the 1994 genocide, the Batwa also lost land to the thousands who had returned from exile. Subsequently, newly-established land bills such as the 2005 National Land Law gave far-reaching powers to the Government to confiscate lands that were allegedly “unused” or “abandoned” – including the forests and wetlands the Batwa depended upon for hunting, agriculture or gathering clay. As of today, the Batwa people are still waiting to receive compensation and land settlements, which would help rebuild their lives.¹

Neighbouring communities also began subtly extending their fields to incorporate Batwa land over extended periods, accompanied by threats and intimidation, pushing them into landlessness, with 43% of Batwa families having no access to land, compared to the national average of 12%. Without the adequate skills to adapt to their new environments, the huge majority of them now live as squatters in various rural areas. Only in exceptional cases do the Batwa who lose land to their neighbours go to local authorities to complain as they do not believe they will be given a fair hearing, since in some instances, local authorities are also implicated in the land-grabbing process. Legal recourses for the Batwa are almost inexistent, as Rwandan property law provides little room for unofficial African land rights of ancestry. Furthermore, their lack of education also means they have little knowledge of their customary and constitutional rights.

¹ Alternative Report of the civil society on the Universal Periodic Review of Rwanda (2011). Retrieved from: http://lib.ohchr.org/HRBodies/UPR/Documents/Session10/RW/JS1_JointSubmission1_eng.pdf

b. Economic Dependency and Inadequate Standard of Living

Many of the issues that will be raised in this section show the non-respect by Rwanda of the Batwa's right to work (ICESCR, art. 6) and right to an adequate standard of living (ICESCR, art. 11), which includes the right to food, the right to water and the right to adequate housing.

As a consequence of land grabbing, many Batwa have been forced into slavery-like conditions working the land of other Rwandans in exchange for food or begging to make a living. Since Batwa communities are stigmatized, they are often only considered for undignified or tedious jobs. The biggest hurdle is illiteracy: only 23% of the Batwa can read and write, compared to 52% of the general population of Rwanda.² Their lack of vocational and/or occupational skills contributes to their lack of economic autonomy, making it very difficult for Batwa to find work and escape poverty.

According to the Comprehensive Food Security and Vulnerability Analysis and the Nutrition Survey conducted in 2012 by the World Food Programme, 43% of children under five years suffer from chronic malnutrition.³ The highest level of food insecurity persists in rural areas, primarily households headed by women, illiterate or elderly persons, with little or no cultivable land, and a low income.⁴ This high-risk profile matches the situation of many Batwa, who live in rural areas, suffer from a high illiteracy rate, and earn well below the average per capita income of 200 USD.⁵

Rwanda has made access to safe drinking water and adequate sanitation an essential goal of its development policies. However, the Batwa community has yet to benefit from this process. In a 2004 report, statistics show that the number of Batwa relying on unsafe sources of water is twice the national average.⁶

The urgent need of the Batwa for adequate housing was noted by Ms Raquel Rolnik, the UN Special Rapporteur on the Rights to Adequate Housing, who conducted a mission to Rwanda in 2012. UNPO field visit to Rwanda in early December 2010 had reached the same conclusion. In Batwa communities living on the lower slopes of the Muhabura volcano, families of six or seven continue to live in tiny cramped shacks composed of plastic sheeting and grass, draped over sticks and wooden poles.

² African Commission's Working Group on Indigenous Populations/Communities (2010). Report of the African Commission's Working Group on Indigenous Populations/Communities: Mission to the Republic of Rwanda 1-5 December 2008. Retrieved from:

http://www.iwgia.org/iwgia_files_publications_files/0474_randa_2-engelsk.pdf

³ World Food Programme. Rwanda – Overview. Retrieved from:

<http://www.wfp.org/countries/rwanda/overview>

⁴ E/C.12/RWA/2-4, Implementation of the International Covenant on Economic, Social and Cultural Rights – Combined second to fourth periodic reports, submitted under articles 16 and 17 of the Covenant – Rwanda (2010). Retrieved from:

<http://www.refworld.org/publisher.CESCR.,RWA,514709a82,0.html>

⁵ UNPO (2008). Batwa Member Page. Retrieved from:

<http://www.unpo.org/members/7861>

⁶ Thiebou, Wouter S.B. (2007). The Twa indigenous of Rwanda: A marginalized people in a post-conflict society seen from a cultural and human rights perspective. Retrieved from:

http://www.wouteraardevn.nl/documents/Thesis_W.Thiebou.pdf

c. Education and Health

Rwanda ratified the Convention on the Rights of the Child (CRC) in 1991. Despite the recognition of the right of the child to the enjoyment of the highest attainable standard of health" (art. 24) and to education "on the basis of equal opportunity" (art. 28), the Batwa have the highest incidences of poverty and lowest access to social and health services of all Rwandans.

Firstly, Batwa cannot access health insurance schemes, as many Batwa still do not have official health documents.⁷ Secondly, those who do enjoy "free" healthcare through Government or NGO programs are required to pay 10% of the total costs of treatment, which members of this impoverished community cannot cover. Thirdly, healthcare facilities are geographically distributed unevenly, often too far away from areas inhabited by Batwa communities. Finally, information collected by UNPO in December 2010 suggests that in some instances, doctors and nurses refuse to see Batwa patients, or even make derogatory or contemptuous comments about them or their appearance. The Batwa also lack health education. In a community visited by UNPO in 2013, due to the absence of reproductive health education, women continued to give birth to children they cannot sustain, leading to further hunger and overcrowding problems in the community.

The education level of the Batwa remains the lowest, and their school dropout rate the highest in Rwanda. Only about 45% of Batwa children go on to secondary school and only 5% attend university.⁸ Poverty, malnourishment and poor health in these communities are the leading cause of low education levels. Due to food insecurity, children leave school and beg on the street to help their parents. The waiving of tuition fees put in place by the Government is insufficient, if it is not accompanied by direct assistance, as Batwa parents usually lack money to buy school uniforms or materials. Another factor is discrimination; Batwa school children often hide their ethnicity, for fear of harassment by fellow students and teachers.

d. Societal and Institutionalized Discrimination

The Batwa also suffer from societal and institutionalized discrimination, contrary to the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD). The Batwa are perceived as backwards, unintelligent or lazy. This casual, but deeply damaging discrimination perpetuates their social exclusion and all its debilitating consequences.

The current Constitution of Rwanda (2003) acknowledges the rights of "marginalized and excluded groups" (art. 9). However, the Government refuses to recognize the Batwa as a group that is structurally marginalized. This renders them invisible to Government

⁷ Minority Rights Group International (2000). The Batwa Pygmies of the Great Lakes Region. Retrieved from: <http://www.minorityrights.org/download.php>

⁸ International Work Group for Indigenous Affairs (2011). Update 2011 – Rwanda. Retrieved from: <http://www.iwgia.org/regions/africa/rwanda/893-update-2011-rwanda>

programmes providing social, welfare and development services, such as primary healthcare, shelter and clean water. Most assistance programs do not reach the Batwa, because in some cases, staff at the local level have the power to re-direct assistance away from Batwa communities. UNPO has been notified of cases when authorities have tried to appropriate materials designated for income-generating projects targeting Batwa communities. This is contrary to the commitment of the State of Rwanda to eradicate State-sponsored discrimination (ICERD, art. 2.1).

e. Suppression of Distinct Batwa Ethnic Identity

The grievances affecting the Batwa's daily life are further aggravated by the fact that the Government refuses to recognize the Batwa as a distinct ethnic group. All ethnic identification has been banned in Rwanda since 1994, in the name of defeating tribalism, ethnic strife, and advancing State unity and societal harmony. In 2003, the Rwandan Constitution officially outlawed discrimination on ethnic grounds. In this – theoretically – ethnic-blind society, the Batwa are thus unable to identify as members of their own community, which is a prerequisite for self-determination, guaranteed by the ICESCR (art. 1). The term used by the Government of Rwanda to describe the Batwa and other vulnerable groups is "historically marginalized people".⁹

This lack of recognition affects the Batwa in a negative way, since NGOs are also unable to address the specific challenges that Batwa communities face. Minority Rights Group reports that the Government had threatened to cut off all assistance to Batwa organisations, if they continued to self-identify as a distinct group. In 2004, for instance, the Rwandan Justice Ministry refused to grant legal status to the NGO Communauté des Autochtones Rwandais (CAURWA), if it continued to identify the Batwa as Rwanda's first inhabitants. In 2007, the Government once again threatened to not renew the charity licence of CAURWA, if it did not remove the term "indigenous" from the name of the organization.¹⁰ The restrictions placed upon organizations contravene the right to freedom of association and assembly (ICERD, art. 5 (d) (ix)).

Rwandan Batwa do not feel like they are part of Rwandan society. According to a report submitted to the Senate by the Commission in charge of Social Affairs in July 2007 on the living conditions of the Batwa, communities "do not feel that they are Rwandans like other citizens".¹¹

f. Absence from Decision-Making and Governing Structures

Despite the fact that ICERD requires State-parties to take "concrete measures to ensure the adequate development and protection of certain racial groups", including affirmative

⁹ African Commission's Working Group on Indigenous Populations/Communities (2010). Report of the African Commission's Working Group on Indigenous Populations/Communities: Mission to the Republic of Rwanda 1-5 December 2008. Retrieved from: http://www.iwgia.org/iwgia_files_publications_files/0474_randa_2-engelsk.pdf

¹⁰ Minority Rights Group International. Rwanda Overview. Retrieved from: <http://www.minorityrights.org/4956/rwanda/rwanda-overview.html>

¹¹ Commission in charge of Social Affairs, Human Rights and Social Issues (2007). Report on the Living Conditions of Some Rwandans Disadvantaged throughout History. P.7.

action measures to allow for the full participation of these groups in political life (ICERD, art 2.2), the Batwa are almost entirely absent from grassroots, regional and national governing structures. They face challenges in participating in local decision-making procedures as a result of widespread discrimination and a general lack of recognition of their distinct ethnic or cultural identity. To combat this detrimental deficit, the Batwa need their own organizations, representing local communities to external institutions like State structures, intergovernmental organizations and NGOs.¹² However, as a result of their marginalization and high levels of illiteracy, active participation in Rwanda's political life is currently inconceivable for many Batwa.¹³ Furthermore, the criminalization of discourse on ethnic issues hampers the establishment of associations and community projects that would tackle Batwa-specific problems or challenges.

g. Cultural Rights

As a consequence of the human rights violations mentioned in this document, Batwa cultural heritage lacks protection in Rwanda. The Government persistently fails to respect the distinct nature of Batwa culture and recognize its contributions to the cultural diversity of Rwanda. It is becoming increasingly difficult to resist cultural assimilation; some younger Batwa are not aware that Batwa language exists.¹⁴

Forests have always been a core feature of the Batwa identity and way of life. Since the Batwa were driven out of their homescapes, their cultural survival and ancient knowledge of the forest is threatened.

¹² Minority Rights Group International (2000). The Batwa Pygmies of the Great Lakes Region. Retrieved from: <http://www.minorityrights.org/download.php>

¹³ UNPO (1995). UNPO Mission Report, Investigating the situation of the Batwa People of Rwanda. Retrieved from: <http://unpo.org/images/reports/batwa%20report%201994.pdf>

¹⁴ GEF Evaluation Office (2007). Case Study: Impacts of Creation and Implementation of National Parks and of Support to Batwa on their Livelihoods, Well-Being and Use of Forest Products. Retrieved from: https://www.thegef.org/gef/sites/thegef.org/files/documents/Impact_Eval_Infodoc10.pdf

IV. Recommendations

Given the above-mentioned human rights situation in the Republic of Rwanda, the Unrepresented Nations and Peoples Organization urges the Government of Rwanda to consider the following recommendations:

- 1. Allow the Batwa to be identified as a distinct ethnic group and allow them to form organizations using their own means of self-identification, so as to allow their communities to be specifically targeted by poverty reduction projects, cultural preservation initiatives and community learning schemes;*
- 2. Ensure full representation of the Batwa community in Government and other public institutions, in compliance with the Rwandan Constitution (art. 82, paragraph 2), which stipulates that eight members of the Senate should be appointed by the President to ensure representation of historically marginalized groups;*
- 3. Combat discrimination against the Batwa in education and health systems, the media and Government institutions, by establishing awareness raising campaigns to combat racist stereotypes;*
- 4. Consult the Batwa before taking any measures, which may affect their lives;*
- 5. Ensure that data collected about distribution of materials and management of poverty reduction projects is disaggregated along ethnic lines to ensure that Batwa communities benefit from them;*
- 6. Distribute land to the Batwa as a landless group under Article 87 of the Land Law;*
- 7. Use participatory and transparent methods to comprehensively "map" Batwa's historic dispossession of their lands and devise appropriate and equitable remedies;*
- 8. Modify property laws to respect collective rights, especially access to forests and wetlands;*
- 9. Adopt measures to address the severe poverty of the Batwa caused by the Government resettlement policy, including the provision of vocational training and micro-finance schemes;*
- 10. Build schools closer to the Batwa communities and develop a curriculum adapted to their way of life that gives the right consideration to the culture, history and language of the community.*