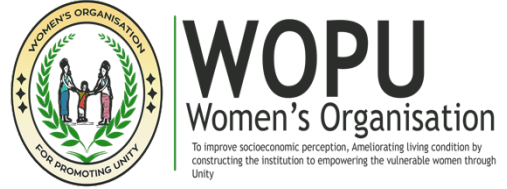


**UNIVERSAL PERIODIC REVIEW (UPR)
STAKEHOLDER SUBMISSION**



**AFRICAN INITIATIVE FOR
MANKIND PROGRESS ORGANIZATION (AIMPO)**

FIRST PEOPLE DEVELOPMENT ORGANIZATION (FPDO)

MINORITY RIGHTS GROUP INTERNATIONAL (MRG)

WOMEN'S ORGANIZATION FOR PROMOTING UNITY (WOPU)

**Submission to the United Nations Universal Periodic Review of
RWANDA**

**37th Session of the Working Group on the UPR
Human Rights Council
January – February 2021**

Submitting Organizations

1. **African Initiative for Mankind Progress Organization (AIMPO)** is a local organization in Rwanda with head office in Kigali. It works on human rights, livelihood and socio-economic wellbeing for the Historically Marginalized People (Batwa) in Rwanda. www.aimpo.org

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2. **First People Development Organization (FPDO)** is an organization whose focus is to advocate for the rights of historically marginalized people with disabilities in Rwanda.

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3. **Minority Rights Group International (MRG)** is an international human rights non-governmental organization working to secure rights for ethnic, religious, and linguistic minorities and indigenous peoples around the world. It has consultative status with the United Nations Economic and Social Council (ECOSOC) and observer status with the African Commission for Human and Peoples' Rights. MRG's head office is in London, the United Kingdom, with Africa Regional Office in Kampala, Uganda. It operates in Africa, Asia, and Europe (non-European Union countries). Through training and education, legal cases, publications, and the media, MRG supports minority and indigenous peoples as they strive to maintain their rights to the land they live on, the languages they speak, to equal opportunities in education and employment, and full participation in public life. www.minorityrights.org

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4. **Women's Organization for Promoting Unity (WOPU)** is a local organization with an office in Kigali. Since its inception in 2013, WOPU has been striving to eradicate extreme poverty and hunger among Historically Marginalized People, with emphasis on women, through advocacy on various program adopted in Rwanda.

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INTRODUCTION

1. The report is submitted by the coalition of organizations working with Historically Marginalized People (HMPO) in Rwanda. They include Minority Right Group International (MRG), African Initiative for Mankind Progress Organization (AIMPO), First People Development Organization (FPDO) and Women’s Organization for Promoting Unity (WOPU), ahead of the 37th Session of the Universal Periodic Review, during which the Republic of Rwanda is under review. The report will focus on concerns related to social and economic rights that Batwa indigenous communities are facing. This report starts with a short introduction to the history of the Batwa. Second, it outlines the main social and economic rights issues confronting the Batwa in the context of national laws. Finally, it presents a list of recommendations to the government of Rwanda to ensure Batwa’s human rights are protected and promoted.

I. WHO ARE THE BATWA

2. The Batwa are currently referred to as “Historically Marginalized People” in Rwanda. They are an indigenous people living across Uganda, Burundi, Rwanda, and the Democratic Republic of the Congo. According to unpublished Senator’s report of 2019, 36,000 people belong to the Batwa in Rwanda. The Batwa are believed to be the original inhabitants of the Great Lakes of Central Africa. The equatorial forests were their homelands, providing them with sustenance, medicine and sacred sites.
3. Over several decades, the Batwa were gradually evicted from their traditional lands owing to a combination of deforestation initiatives, conflict leading to violence, and conservation and development projects. The remaining forest-dwelling Batwa of what are now Volcanoes National Park, Gishwati Forest, and Nyungwe National Park in Rwanda were expelled as recently as 1994 without consultation, free prior and informed consent nor adequate compensation. These communities were integrated into Rwandan society at the lowest level, forced to adopt a sedentary way of life with inadequate state support and little, if any, resources.
4. The Batwa lived in scattered villages where they form small number of families. They used to frequently marry among themselves resulting in a higher frequency of genetic diseases. Batwa face unique challenges and uncertainties related to socio-economic deprivation, high

unemployment and acute political marginalization.

II. VIOLATIONS OF HUMAN RIGHTS

5. After the 1994 genocide against Tutsi, Rwanda has known tremendous economic and human development. For instance, women have entered Rwanda's political and administrative institutions in impressive percentages. They now occupy half the seats in the National Assembly and almost one-third of the portfolios in the government. Rwanda's government has decided to ban ethnic identity from public discourse and policy as a consequence of the 1994 Genocide against Tutsi. However, this policy affects all domains of Batwa's lives. It leads to the denial of their existence as either a minority group or indigenous people or as a separate marginalized community. Twa communities, activists, and civil society organizations can no longer mobilize around the Batwa identity and culture. Instead, they make use of the 'Historically Marginalized Peoples' or 'HMP' label as a method of collective identification. Introduced in the Constitution of Rwanda in 2003, the HMP category has no official definition,¹ and is often thought to apply unilaterally to 'all people left behind by history,' including women, peoples with disabilities, Muslims, and the Twa. This blanket category does not address the specific barriers to Batwa integration. The Batwa do not have access to land, leading to an infringement of their cultural rights that are based on the environment as forest hunter-gathers. They also lack access to education and health. Discrimination against Batwa is high both at societal and institutional levels. Batwa are largely absent from decision-making organs and government structures, undermining their capacity to participate in the public and political life of the country.

a) Right to Education

6. Education and Health are fundamental human rights protected under international and national laws. Education is an essential tool to help all people to realize their full potential. Education and training have been considered a critical cornerstone to achieving development and poverty reduction in Rwanda. Article 20 of the Constitution of 2003, as amended in 2015, states that 'Every Rwandan has the right to education. Likewise, primary education is compulsory and free in public schools. Rwanda adopted policies to access learning such as secondary and tertiary education policies, Early Childhood Care and Development (ECCD), Vocational and Technical

¹ Article 80(2) of the Constitution of Rwanda of 2003, as revised in 2015.

Education (VTE), and Girls education policy.² Although Government adopted several education policies to promote education, Batwa children have not benefited from these initiatives due to economic challenges like acute poverty their families faced.

7. For example, Batwa children have been expelled from schools due to lack of uniforms, shoes or school feeding fees. Batwa children pass national examination face barriers to study their course options in boarding schools because they cannot afford school fees between 80,000 RWF and 100,000 RWF (approx. 85 to 105 USD). Likewise, Batwa children do not attend higher institutions like Universities due to poverty and lack of scholarship. They most often end up attending nearest schools that do not offer their choices, or just drop out of the school. Today, education indicators has remained very low for the Batwa, with only 40 Batwa students graduating across the country between 2009 and 2020. The school dropout rate is high among Batwa children because of food scarcity and lack of money for the parents to buy school materials. In Rwandan, the attending twelve years basic education is compulsory for all children but today only about 30 percent of Batwa children go to secondary school and 0.5 attend university.

b) Right to Health

8. Data shows that Batwa face disproportionate rates of malnutrition and related health problems in infants, children and pregnant women. Batwa communities have the highest extreme poverty and lowest access to social health services of all other remaining Rwandans.³ Few Batwa access healthcare, and even where healthcare facilities exist, many Batwa cannot afford medications and do not have the documentation such as birth certificate, health insurance and National Identification Card required to obtain care.
9. Batwa communities generally live in poor hygiene and sanitation conditions. Their children frequently suffer from skin diseases due to the poverty of parents who cannot afford soap and children's clothes.

²MINISTRY OF EDUCATION GIRLS' EDUCATION POLICY, 2008 <
<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/94008/110190/F-1833244927/RWA-94008.pdf>>

³ Study report for AIMPO, WOPU AND MRG on the status of the inclusion and involvement of HMP in various socio-economic and political programmes and the promotion of their human rights. <https://minorityrights.org/publications/rwanda-final-baseline-study-report/> (accessed on 8 July 2020).

c) Discrimination against Batwa in participation in public and political life

10. Rwanda has promoted unity and reconciliation among Rwandans through a series of programs, in line with Article 10 of Rwanda constitution of 2003 revised in 2015⁴ that provides that any form of discrimination is forbidden. However, Batwa have continued to face societal and institutional discrimination. For instance, in local government elections, Batwa who are candidates frequently face indirect discrimination and vilification during electoral campaigns, in contravention of the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD). Batwa are commonly perceived and referred to by the Rwandan society as non-human beings, unintelligent, or backward and unreasoning people. This case of discrimination has also been revealed by Senator Report of 2019 on the living conditions of Historically Marginalized People in Rwanda.⁵

11. In national dialogues like Umushyikirano⁶, Batwa are not invited to participate. Batwa are not represented at National commissions that deal with national issues such as the National Commission of Unity and Reconciliation, National Commission against Genocide and National Commission of Human Rights. Although the Constitution of 2003, as revised in 2015, acknowledges Historically Marginalized People (art 80.2), the Government does not recognize Batwa as a structurally marginalized group but consider them as poor in general. Batwa face specific barriers in accessing social welfare and development services such as healthcare, one cow per family, shelter, and clean water. For instance, Batwa cannot benefit one cow per family due to lack of land. Cannot access financial loan because they do not own property for collateral. Furthermore, some assistance comes to the Batwa communities, local authorities sometimes re-direct them away from the Batwa, in part because there is not Batwa representation in local leadership, or they do not access information on assistance available for them. Rwanda Senator Report presented a case of mismanagement of the fund, where government support that was meant to help Batwa was used for other activities contrary to the aim of the fund.

³ Rwanda National Constitution of 2003 Rev 2015, Article 10: Fundamental principles The State of Rwanda commits itself to uphold the following fundamental principles and ensuring their respect, paragraph 2^o, Eradication of discrimination and divisionism based on ethnicity, region or any other ground as well as the promotion of national Unity.

⁵ Senator report, 2019 'Overlooking the living condition of historically marginalised people in Rwanda 'unpublished report, Rwanda Senator Chamber.

⁶ *Umushyikirano* is the national dialogue that takes place in Kigali capital city every December of the Year. It brings together all institutions, provides sector, diaspora, and others.

d) Gender Equality

12. The promotion of gender equality and the empowerment of women and girls is a central part of the development policy of Rwanda. The Constitution of the Republic of Rwanda of 2003, revised in 2015, enshrines the principles of gender equality and women's rights and provides a quota of a minimum of 30% women in all decision-making organs. The National Gender Policy established in 2010 is officially aiming at the elimination of all forms of gender discrimination.⁷
13. Despite the legal framework and policy that exist in Rwanda that has significantly contributed to the realization of gender equality and the empowerment of women across different sectors, Batwa women have been largely left behind so far. For instance, there are no Mutwa⁸ women either in parliament or in any other public government institutions. Batwa women suffer from acute poverty and gender-based violence outside their sexual harassment and exploitation outside their community. They face specific barriers in access to financial institutions due to lack of financial means and pledge.
14. There are high rates of unplanned pregnancies among Batwa girls and sometimes men are not willing to support the (future) mother for fear that society would know that they impregnated a Batwa girl. When girls are in school, it leads to high drop out rates.

e) Right to Land and Property

The right to property is one of the fundamental human rights. Article 34 of the Rwandan Constitution states that everyone has the right to private property, whether it is owned individually or collectively. According to the Constitution, private property, whether owned individually or collectively, is inviolable, and the right to property shall not be infringed upon except in public interest and following the provisions of the Law.

15. The Batwa of Rwanda is one of the several ethnic groups that belong to the indigenous population of the whole Great Lakes region and is referred to as 'Forest people' or by the pejorative term 'Pygmies.' They were living in their traditional land, the tropical forest of the Great Lakes Region.⁹ The Batwa, for centuries, have existed and practiced a semi-nomadic

⁷Republic of Rwanda, GENDER MONITORING OFFICE 'the state of gender equality in Rwanda from transition to transformation'(2019). 10. http://gmo.gov.rw/fileadmin/user_upload/Researches%20and%20Assessments/State%20of%20Gender%20Equality%20in%20Rwanda.pdf.

⁸ Mutwa is singular and Batwa is plural form.

⁹ J Lewis the Twa pygmies: Rwanda's ignored people (2006)2.

economic and cultural manner of living with a distinct connection to the surrounding forests as a source substance of the herbal medicine, food, materials for building their home and spiritual life. In 1974, a decree-law established an institution known as 'Rwanda Office Tourism and National Parks (ORTPN)' to regulate and to conserve the environment, in particular the animals and ecosystems, and to prevent the depletion of the protected zone. Since this Law was enacted, the Batwa were gradually expelled without any consultation and without their free, prior and informed consent. Batwa were not given land after being evicted or in the policy land-sharing after the 1994 Genocide against Tutsi.

16. The Law governing land in Rwanda as adopted in 2013, in its Article 12 categorizes natural forests, national parks, protected swamps, State public gardens, and tourist sites as State land.¹⁰ Likewise, 2013 Law (art.67) states that “ The Government has the responsibility to allocate land to persons denied rights on their land due to historical reasons”.
17. Today, many Batwa are still waiting to receive compensation and land, which would help to restart a new life.¹¹ Further land of Batwa has been taken away by their neighbouring communities through threats and intimidation, pushing them into landlessness, with now 75% of Batwa families having no access to land while 70% of the population depends on agriculture. Batwa do not access forest resources; they do not have the right to hunt and participate in forest management.

f) Extreme poverty, right to food and to adequate housing

18. Several of concerns that we raise in this section show the non-respect by Rwanda Government of the Batwa's 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 the lack of land, many Batwa suffer from hunger and malnutrition. A number of Batwa have been forced into slavery to work in the land that belongs to other Rwandans in exchange for food. Others resort to begging in order to survive. Many Batwa children do not attend school due to lack of food.¹²

¹⁰ Article 12 of Law N° 43/2013 OF 16/06/2013 Governing Land in Rwanda.

¹¹ UNPO “Submission to the UN Office to the High Commission for Human Rights for the consideration of the Universal Periodic Review of the Republic of Rwanda during the 23rd Session.

¹² See above (n 3 & 5).

19. Rwanda has achieved great progress in efforts to secure safe cleaning water and adequate sanitation as a goal for policy development as well as to fight dirty hand disease. However, Batwa do not yet benefit from water and sanitation program. A high number of Batwa uses unsafe water because they cannot pay water.
20. The right to adequate housing is a fundamental right. 53.3% of the Batwa do not have adequate housing¹³. The 2012 Law Governing Urban planning and Building in Rwanda establishes guidelines on urban planning in Rwanda. Furthermore, a policy of housing access schemes for all was created. Under this policy, social housing for particular groups, including Historically Marginalized People, was indicated. Social housing is done and implemented through community works and cooperative building, and other stakeholder support.¹⁴ Batwa who were given houses through this policy of social housing have reported that provided houses were too small and inadequate vis-à-vis the number of family members living in the same house. For instance, there has been reports of 7 to 10 people living in a small room, with consequence in terms of promiscuity and risks of sexual violence. Again, the communities that were given houses through social housing policy were not given land titles. As a consequence, it is unclear for them whether their homes are for them permanently or not.

g) Right to Identity and Culture

21. Batwa suffer from non-recognition as a distinct group. The Government of Rwanda (GoR) has embarked on an aggressive ‘de-ethnicization’ campaign to remove ethnic identity from public discourse and policy as a consequence of the 1994 Genocide against Tutsi. As a result of this policy, the Batwa have become further marginalized because their invisibility is now institutionalized.
22. Batwa community members, activists, and civil society organizations can no longer mobilize around the Batwa identity and culture, which is a prerequisite for internal self-determination, guaranteed by the ICESCR and ICCPR common art.1. Instead, they make use of the ‘Historically Marginalized Peoples’ or ‘HMP’ label as a method of collective identification. The name of HMP does not address the specific barriers to Batwa integration, like participating in

¹³ See Above (n 3)

¹⁴ MINISTRY OF INFRASTRUCTURE NATIONAL HOUSING POLICY (2015) 16.
http://www.rha.gov.rw/fileadmin/user_upload/Documents/Policies/National_Housing_Policy.pdf

decision-making organs and raising their concerns.

23. Batwa do not feel on equal footing with other Rwandans because they do not participate in national dialogues like other Rwandans. The Government fails to respect the distinct nature of Batwa culture and recognizes its contributions to the cultural diversity of Rwanda. It is becoming increasingly hard to resist cultural assimilation; some younger Batwa are not aware that Batwa language existed.¹⁵

h) The situation of Batwa with disabilities

24. Rwanda ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol on 15 December 2008 without reservations. The Rights of Persons with Disabilities are additionally protected by the National Laws N° 01/2007 on the Protection of Persons with Disabilities in general and N°02/2007 on the Protection of Former War Combatants with Disabilities. People with disabilities are constitutionally protected by articles 10 to 51 of the Constitution. For instance, Article 51 of the Constitution, provide the State duty to establish special measures facilitating the education of persons with disabilities and their welfare. Today, the Batwa with disabilities face double challenges.
25. In 2016, a baseline survey conducted by AIMPO found that there were three hundred and thirty-five (335) Batwa with disabilities over ten districts of Rwanda. 98% of these people were living in extreme poverty and they were not accessing social security funds provided by the Government. Furthermore, Batwa with disabilities do not get employ in the mainstream programmes designated to support the poorest and the most vulnerable such as Vision Umurenge Programme (VUP).¹⁶ Batwa children are not enrolled in child care centers and able to access education like other children with disabilities due to lack of information or poverty of their families. Batwa with disabilities do not have mobility benefits, such as wheelchairs, scooters, walkers, canes, crutches, prosthetic devices, and orthotic devices. Likely, Batwa often face barriers in accessing medical care due to non-recognition or lack of disability documents given by the National Council of People with disabilities (NCPD).

¹⁵ See Above (n.9).

¹⁶ VUP is an Integrated Local Development Program to Accelerate Poverty Eradication, Rural Growth, and Social Protection. VUP has four components: public works, cash transfers (direct support), financial services and sensitization. Our study focused on the public works component through which the government offers temporary employment to extremely poor households with at least one adult member able to work. The majority of public works consists of activities geared towards supporting agricultural livelihoods and land conservation, as well as maintaining physical infrastructure.

III. RECOMMENDATIONS

- *The Government must adopt affirmative action to support Batwa historically Marginalized People to access public services and participate in decision-making.*
- *The National Action Plan of the Human Rights Commission must include the protection of historically Marginalized People, including people with disabilities, children, and women.*
- *The Government must include Batwa in all decision-making organs and public structures to ensure that unity and reconciliation are achieved.*
- *The Government must sensitize the local leaders to respect the HMP's right to expressing their constructive ideas, their problems for promotion the Unity and reconciliation of the country.*
- *Prevent and punish the discrimination, harassment and violence against HMP and establish measures to raise awareness about their situation and put them on equal par with other Rwandans, and hold accountable people who participate in discrimination, harassment and violence against them.*
- *The Government should take measures to ensure that Historically Marginalized students have full access to education despite school fees, lack of notebooks and Uniforms.*
- *Government and Ministry of Education ensure that Batwa students oriented in Technical Vocational Education Training (TVT), Teacher Training Centers (TTCs), and other Sciences in boarding schools have a complete school cycle with zero dropout due to lack of school fees.*
- *Provide Special Support to Historical Marginalized people to study in university, Short-courses and Adult literacy.*
- *Empowering Batwa women and helping them access finance through supporting their small income-generating activities.*

- *Protect Twa-activist and facilitate their organizations to access funds and legal documents.*
- *Help victims of gender-based violence to go to school through the establishment of anti -GBV and child protection committees from the grassroots level to the National level.*
- *Enhance the mechanisms of HMPs' hygiene, access to clean water and safe house for increasing health protection and limiting the contagious illnesses which are responsible for stunted child growth.*
- *Distribute the land to landless HMP as stipulated in article 67 of Land Law, and provide the parts of wetland as a source of clays to support HMP pottery cooperatives*
- *Register and give the cards to HMP with disability so that they can benefit from health services.*
- *Help children with disabilities from HMP families, especially those with intellectual disabilities, to join Special Education in Centers, as stated in the Constitution of the Republic of Rwanda, Article 51.*
- *Help Batwa to get jobs in the Tourism sector as former guardians of the national parks and forest.*
- *Allow Batwa to access natural environments for collecting honey and forest food.*
- *Provide adequate housing units to Batwa families that do not have and give land titles to such families.*