



**07 July 2009**

**Urgent communication to the United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples concerning the situation of the Batwa indigenous people of southwest Uganda**

1. This urgent communication is respectfully submitted to the United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples by the United Organisation for Batwa Development in Uganda (“UOBDO”) and the Forest Peoples Programme (“FPP”). These organisations are described on page 6 of Annex A hereto [[http://www.forestpeoples.org/documents/africa/uganda\\_achpr\\_supp\\_rep\\_may09\\_eng.pdf](http://www.forestpeoples.org/documents/africa/uganda_achpr_supp_rep_may09_eng.pdf)]. This annex, which was submitted to and considered by the African Commission on Human and Peoples’ Rights in May 2009, constitutes the main component of this current submission and describes in detail the situation highlighted below.

2. The Batwa indigenous people are the aboriginal occupants of southwest Uganda. They self-identify as indigenous people and have been recognised as such by various international human rights bodies. The Batwa were traditionally hunter-gatherers who lived in and on the margins of the region’s montane forests since time immemorial. Today there are approximately 3,135 Batwa living in southwest Uganda. These Batwa are former inhabitants of the Bwindi, Mgahinga and Echuya forests.

3. As discussed in detail in Annex A, the Batwa have been expelled from their traditional forest lands by a combination of historical encroachment by agriculturalists and pastoralists, who were responsible for massive clearing of the forest, and by the establishment of conservation zones in their territory. These zones, which were first created by the colonial regime in the 1930s, were gazetted as national parks by the independent State of Uganda in the 1990s with the result that the Batwa were formally and finally evicted from their remaining forest lands. There was no consultation with nor participation by the Batwa in any of the decision-making associated with the establishment of the national parks and their consequent eviction.

4. The Batwa were thus entirely dispossessed of their ancestral territory and their various relations therewith have been forcibly severed due to the imposition and enforcement of legislative enactments that deny them any property rights in or access to their traditional forest lands. They are denied access to these lands for any purpose and have suffered physical abuse and legal sanction when caught attempting to enter these areas for cultural, religious, subsistence or other reasons. They cannot, for instance, visit and care for the graves of their ancestors and their other sacred sites in the forest and nor can they hunt and gather forest produce and their traditional medicines.

5. The Batwa as a collectivity and as individuals have not been compensated for their expulsion and the loss of their territory, and no meaningful attempt has been made to otherwise repair the ongoing violations of their rights caused thereby. Non-Batwa who lost their lands were compensated however. It is no exaggeration to say that the Batwa have suffered and continue to suffer irreparable harm to their basic rights and integrity and that their very existence as a physical and cultural entity is gravely threatened due to Uganda’s acts and omissions.

6. Once expelled, the majority of Batwa became landless sharecroppers, forced to eke out a tenuous existence on parcels of land owned by non-Batwa living around the national parks. In the vast majority of cases, these relationships are tantamount to bonded labour or worse. Many Batwa are therefore also forced to beg in the streets in order to meet their basic needs. Further, the Batwa experience severe discrimination that has apartheid-like qualities in the social, political, economic and other spheres of life. This discrimination translates into gross and pervasive violations of Batwa civil, political, economic, social and cultural rights. When their existence is acknowledged, the Batwa predictably fall at the bottom of all indices of well-being in Uganda.

7. The situation described above persists despite regional and international human rights laws that guarantee the rights of the Batwa and which are in force for Uganda. The UN Declaration on the Rights of Indigenous Peoples, which was supported by Uganda, for instance, provides that

Art. 8: 1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture. 2. States shall provide effective mechanisms for prevention of, and redress for: (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities; [and] (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources. ...

Art. 20: 1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities. 2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Art. 28: 1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent. 2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

8. As discussed in Annex A, the above-quoted norms restate existing rules of international law, including as set forth in the African Charter of Human and Peoples' Rights. Uganda, however, has failed to comply with its associated obligations and the Batwa continue to suffer extreme and ongoing harm to their rights and dignity.

9. When questioned about the situation of the Batwa by the African Commission on Human and Peoples' Rights in May 2009, Uganda explained that its constitution declares that all Ugandans are indigenous. On this basis, Uganda further explained that it was willing to treat the Batwa as a 'vulnerable group', but not as an indigenous people. Such unilateral determinations contravene Uganda's obligations under international law and contradict the prior application of the World Bank's former Operational Directive 4.20 on Indigenous Peoples to those Batwa evicted from the national parks.<sup>1</sup> The State's view also contradicts the African Commission's finding that the Batwa in Uganda constitute an indigenous people and self-identification as indigenous by the Batwa themselves. Notwithstanding this, the Batwa

---

<sup>1</sup> World Bank, *Uganda: Bwindi Impenetrable National Park and Mgahinga Gorilla National Park Conservation*, Global Environment Facility, Project Document 12430 – UG. Global Environment Coordination Division, World Bank, Washington DC, January 1995. See also *The Batwa of South West Uganda: World Bank Policy on Indigenous Peoples and the Conservation of the Bwindi and Mgahinga National Parks*, 23 October 2000. Available at: [http://www.forestpeoples.org/documents/ifi\\_igo/wb\\_ips\\_uganda\\_may00\\_eng.pdf](http://www.forestpeoples.org/documents/ifi_igo/wb_ips_uganda_may00_eng.pdf) and; *Securing Indigenous Peoples' Rights in Conservation: A review of south-west Uganda*, September 2008. Available at: [http://www.forestpeoples.org/documents/conservation/wcc\\_uganda\\_pa\\_review\\_sept08\\_eng.pdf](http://www.forestpeoples.org/documents/conservation/wcc_uganda_pa_review_sept08_eng.pdf).

are clear, whatever name may be applied to them, including naming them as a 'vulnerable group', that the indigenous peoples' rights framework is the most appropriate to their identity, characteristics and situation.<sup>2</sup>

10. Given the dire and urgent situation that the Batwa find themselves in today – a situation which fully conforms to the mandate of the Special Rapporteur – the UOBDU and the FPP respectfully request the following:

- a) that the Special Rapporteur communicates with the Government of Uganda as a matter of urgency and requests that Uganda provides information on the situation of the Batwa at the earliest possible opportunity;
- b) that the Special Rapporteur offers to assist Uganda to adopt urgent and longer-term measures to secure the rights and well-being of the Batwa;
- c) that the Special Rapporteur requests an invitation from the Government of Uganda to conduct an on-site visit to view the situation of the Batwa first hand and to meet with Government official and agencies and representatives of the Batwa.

Yours respectfully,

**Elias Habyarimana**  
Chair,  
UOBDU

**Valérie Couillard**  
Coordinator,  
African Legal and Human Rights Programme  
FPP

---

<sup>2</sup> See *The Batwa Declaration to the Government of Uganda on Securing their Land Rights*, February 2009. Available at: [http://www.forestpeoples.org/documents/africa/uganda\\_batwa\\_declaration\\_feb09\\_eng.pdf](http://www.forestpeoples.org/documents/africa/uganda_batwa_declaration_feb09_eng.pdf).