

# **Batwa women in Uganda : disproportionate human rights violations**

ALTERNATIVE REPORT  
to the Combined 4th to 7th periodic reports of Uganda (CEDAW/C/UGA/7)

Submitted by

**United Organisation for Batwa Development in Uganda  
and Forest Peoples Programme**

To the United Nations' Committee on the Elimination of Discrimination Against Women

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**UOBDO**  
United Organisation  
for Batwa Development  
in Uganda



Forest  
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**The submitting organisations**

The United Organization for Batwa Development in Uganda and the Forest Peoples Programme (“the submitting organizations”) respectfully submit this supplementary report to the Committee on the Elimination of Discrimination Against Women (thereafter “the Committee” or “CEDAW”) in order to provide it with information about the situation and rights of the indigenous Batwa women in Uganda and to comment on Uganda’s periodic report.

The United Organisation for Batwa Development in Uganda (UOBDU) aims to support Batwa in Uganda to address their land issues and other socioeconomic problems and to help them develop sustainable livelihoods. UOBDU, registered in 2001, is a national NGO formed by Batwa. All Batwa are eligible to join and the organization’s governing board is made up of Batwa who are elected at UOBDU’s periodic General Assemblies.

The Forest Peoples Programme (FPP) is an international human rights organisation founded in 1990 and based in the United Kingdom. FPP supports forest peoples in their struggle to control the use of their lands and resources, and works to put human rights issues at the heart of the debate about forests. FPP helps to create space for forest peoples to negotiate their demands through their own representative institutions and to determine their own futures. FPP supports forest peoples to develop sustainable activities that enhance their dignity and the protection of the environment. FPP has been working with the indigenous Batwa of the Great Lakes region since 1995 and with the Ugandan Batwa since 2000.

## **PART I: Introduction and summary**

1. This report presents information pertaining to the violations of Batwa women's human rights as guaranteed under the Convention. Those violations are all linked to the multiple forms of discrimination that Batwa women experience as indigenous women in Uganda and which disproportionately violate their basic human rights and fundamental freedoms, their right to take part in political and public life, their right to be represented, their right to education, their right to employment and their right to health, respectively protected under the Convention by Articles 1, 2, 3, 4, 5, 7, 8, 9, 10, 11 and 12.
2. Across the globe, indigenous women are disproportionately affected by many intersecting discriminatory factors: gender, race or ethnicity, class, language, traditions, literacy, health situations, etc. For indigenous Batwa women in Uganda those factors are, among others and in addition to gender and ethnicity: landlessness, poverty, disregard from other members of society, low levels of literacy and education, vulnerability in the work environment and poor health conditions. Their human rights as women also have to be appreciated in the wider context of the communities in which they belong.
3. In spite of the wide protections and provisions in the Constitution of Uganda for special measures towards women and other vulnerable people's rights, Batwa women have yet to benefit from governmental affirmative actions to redress the imbalances and inequalities that they are subject to. They are excluded from public life and not represented in political instances. Their literacy and education levels are alarming. This also links to the need for vocational training in order to ensure the right to employment. In the work environment they also face various forms of abuse from which they should be protected in accordance with human rights law. As Batwa, they are for the most part exposed to forced labour in exchange for being allowed to stay on other peoples' land. Finally, Batwa women's health and reproductive health rights are violated as they are particularly vulnerable to sexual abuse and violence and have lost access to and knowledge of their traditional natural medicinal resources.
4. In view of the above, the submitting organisations respectfully request that the Committee emphasises, in its recommendations to Uganda, the fact that Batwa women experience multiple forms of discrimination, which are the result of the intersection between their gender and their ethnicity, and that for this reason, the measures to be taken by Uganda to redress the human rights violations that Batwa women face must encompass both their collective land rights as members of an indigenous group and their human rights as women.
5. In addition, the submitting organisations respectfully request that the Committee calls on Uganda to:
  - a. Urgently take special measures to ensure the effective protection of Batwa women's rights, first and foremost by taking reparation measures to restitute and/or compensate the loss of their ancestral lands and ensure that their land rights as indigenous peoples per international law are respected, in order to address the intersectional discrimination Batwa women face;
  - b. Collect and report data on Batwa women disaggregated with regards to all sectors of society, including political participation and representation, education, employment and health and collaborate with national human rights institutions

to gather this data and send a report to the Committee which includes information on the measures taken to implement the rights of Batwa women;

- c. Take all necessary measures to ensure that the right of Batwa women to participate in political and public life and the right to be represented be effectively implemented. In particular, that Uganda consults and ensure effective participation on indigenous Batwa women in decisions concerning their right to land;
- d. Strengthen its monitoring of progress, for women and girls, in the implementation of its educational policies and programmes and gather and report data disaggregated by sex over time, on Batwa girls' and women's education and on the impact of the measures taken in this field;
- e. Take immediate steps to ensure equal access for Batwa girls and young Batwa women to all levels of education, and to retain girls in school, make every effort to improve the literacy of indigenous Batwa women, including through adequate resourcing of comprehensive programmes at formal and non-formal levels and through adult education and training;
- f. Take urgent measures to ensure that Batwa women are freed from forced labour practices and are guaranteed full enjoyment of their employment rights, and, in particular, to ensure Batwa women's access to vocational training;
- g. Guarantee the effective implementation of Batwa women's rights to health, notably by providing them access to their traditional medicinal plants;
- h. Take all necessary measures to ensure that the reproductive health rights of Batwa women are protected, notably by taking affirmative measures to raise social awareness of sexual illnesses and by ensuring access to free, viable and culturally sensitive reproductive health services to Batwa women.

## **PART II: Overview of the situation of the Batwa people in Uganda**

6. Originally, the Batwa were forest-dwelling hunter-gatherers, living and practising a traditional cultural and economic way of life in the high mountainous forest areas around Lake Kivu and Lake Edward in the Great Lakes region of Central Africa. The Batwa are widely accepted as the first inhabitants of the region, who were later joined by farmers and pastoralists. The Batwa are still to be found living in Rwanda, Burundi, Uganda and eastern Democratic Republic of Congo.
7. While accurate figures are difficult to determine and estimates from different sources vary, it is believed that approximately 6,700 Batwa live within the present State boundaries of Uganda, mainly in the south-west region. Data collected by UOBDU for the districts of Kisoro, Kanungu, Kabale, Mbarara, Ntungamo and Katovu count 3,135 Batwa, 2,987 of which are in Kabale, Kanungu and Kisoro.<sup>1</sup> These Batwa are former inhabitants of the Bwindi, Mgahinga and Echuya forests, from which they have been evicted and excluded over time by State action. The English colonial administration established conservation zones on these traditional forested territories in the 1930s, and in 1991, Uganda established Bwindi and Mgahinga as National Parks for gorillas and evicted the Batwa definitively from the forest.<sup>2</sup>
8. The rest of their traditional forested territories were destroyed and fell under the control of agro-industry and conservation agencies. The Batwa were thus forced to abandon their traditional lifestyle based on hunting and gathering. Some were able to develop new means of survival as potters, dancers and entertainers. Others became dependent on occasional work and begging. Virtually all were rendered poor and landless. The Batwa became squatters living on the edges of society. They encounter prejudice and discrimination from the dominant society, which refers to them as “pygmies”. This marginalized existence and discrimination continues largely unabated today. Their customary rights to land have not been recognized and they have received little or no compensation for their losses, resulting in a situation where almost half of all of Batwa remain landless and are living in extreme poverty.<sup>3</sup>
9. As summarized in a study contained in a Social Protection report prepared for Uganda’s Ministry of Gender:

The entire community of Batwa are poor and depend on begging as a form of livelihood. Most are landless – out of about 2,000 Batwa pygmies in Western Uganda, only 74 have land – and are widely regarded as people “with no rights”. Tax exemption for this group is taken as a sign that the government does not recognise them. Although other minorities are represented in parliament through

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<sup>1</sup> UOBDU, Batwa Data of December 2007, districts of Kisoro, Kabale, Kanungu, Mbarara, Katovu, Ntungamo, p. 4; A Situational Analysis of Gender-based Violence against Batwa Women in Kisoro, Kabale and Kanungu districts in Southwestern Uganda, A Research Carried out between November 2008 and April 2009 by African International Christian Ministry (AICM) and United Organisation for Batwa Development in Uganda (UOBDU), May 2009, p. 6.

<sup>2</sup> See among others: African Commission on Human and Peoples’ Rights, Report of the Working Group on Indigenous Populations/Communities (2005), p.22

<sup>3</sup> Detailed information on the Batwa can be found in: Lewis, J, The Batwa Pygmies of the Great Lakes Region, MRG, London, 2000; Woodburn, J. Indigenous discrimination: the ideological basis for local discrimination against hunter-gatherer minorities in sub-Saharan Africa, in Ethical and Racial Studies, Vol. 20, No.2, 1997, pp. 345-361; Jackson, D., Twa Women Twa Rights in the Great Lakes Region of Africa, MRG, London, 2003; Nelson, J. and Hossack, L. (eds.), From principles to practice: Indigenous peoples and protected areas in Africa, FPP, Moreton-in-Marsh, 2003.

NGOs and CBOs, the Batwa pygmies are not. Other ethnic groups despise them. They rarely eat on the same plate with neighbours. Although, they have been living in isolation, they have not escaped the HIV/AIDS epidemic. Their housing conditions are very poor and they lack access to social services such as running water and health facilities. This group can be seen as chronically poor. Their children experience high rates of malnutrition and there is societal discrimination against them. As a result of all these problems, they are demotivated [*sic*] as a group and seem to be resigned to their situation.<sup>4</sup>

10. The African Commission on Human and Peoples' Rights on numerous occasions addressed the lack of recognition of the Batwa as indigenous peoples.<sup>5</sup> The African Commission expressed its concerns regarding "the exploitation, the discrimination and the marginalization of indigenous populations in particular the Batwa people of Uganda"<sup>6</sup> and denounced "the failure to recognise the Batwa peoples as indigenous as guaranteed under the African Charter".<sup>7</sup> The African Commission urged the State to "ensure that the rights of indigenous people in particular the Batwa people of Uganda are respected."<sup>8</sup>
11. Uganda's failure to respect its international obligations and to protect and recognise the Batwa as indigenous peoples under international law disproportionately affects Batwa women, who, as stressed by the African Commission's Working Group on Indigenous Populations/Communities in its country visit report on Uganda, are in a very vulnerable situation in general.<sup>9</sup> The paragraphs below explain in more details how the rights of indigenous Batwa women in Uganda under the Convention on the Elimination of All Forms of Discrimination Against Women (thereafter 'the Convention' or 'ICEDAW') are violated.

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<sup>4</sup> Institute of Development Studies, Social Protection in Uganda: Study to inform the development of a framework for social protection in the context of the Poverty Eradication Action Plan: Phase 1 report: Vulnerability Assessment and Review of Initiatives, Chapter 3 "Analysis of Vulnerability in Uganda", p.44, Sussex, 2002, available at:

<http://www.ids.ac.uk/ids/pvty/pdf-files/UgandaCh3.pdf>

<sup>5</sup> Concluding Observations of the African Commission on the 2<sup>nd</sup> Periodic Report of the Republic Of Uganda, 40<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights, Banjul, the Gambia, 15 to 29 November 2006, paragraph 23 and 34; Concluding Observations of the African Commission on the 3<sup>rd</sup> Periodic Report of the Republic Of Uganda, 45<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights, Banjul, the Gambia, 13 to 27 May 2009, paragraphs 19, 36 and recommendation k).

<sup>6</sup> Concluding Observations of the African Commission on the 3<sup>rd</sup> Periodic Report of the Republic Of Uganda, 45<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights, Banjul, the Gambia, 13 to 27 May 2009, paragraph 36.

<sup>7</sup> Concluding Observations of the African Commission on the 3<sup>rd</sup> Periodic Report of the Republic Of Uganda, 45<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights, Banjul, the Gambia, 13 to 27 May 2009, paragraph 19.

<sup>8</sup> Concluding Observations of the African Commission on the 3<sup>rd</sup> Periodic Report of the Republic Of Uganda, 45<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights, Banjul, the Gambia, 13 to 27 May 2009, recommendation k.

<sup>9</sup> Research and Information Visit to the Republic of Uganda, 14-17, 24-29 July 2006, Report of the African Commission's Working Group on Indigenous Populations/Communities, ACHPR and IWGIA, 2009.

### **PART III: Violations of the rights of Batwa women**

12. Uganda ratified ICEDAW on 22 July 1985. It did not ratify the Optional Protocol to the Convention. Uganda is also State party to a number of other important human rights treaties, such as the International Covenant on Civil and Political Rights, the International Covenant on Economic Social and Cultural Rights, the International Convention on the Elimination of All forms of Racial Discrimination and the African Charter on Human and Peoples' Rights.

#### **Intersectional discrimination as indigenous women (Articles 1, 2, 3)**

13. It is widely acknowledged by international human rights bodies that indigenous women experience multiple forms of discrimination.<sup>10</sup> Because of their gender and ethnicity, but also in many cases, because they belong to linguistic or other types of minorities, which often creates significant obstacles to their ability to access education and employment and generally impedes the implementation of their economic social and cultural rights.<sup>11</sup>
14. The intersection between race and gender that indigenous women face was notably explained by two former United Nations' Special Rapporteurs on Violence Against Women, its Causes and Consequences, Radhika Coomaraswamy and Yakin Ertürk.<sup>12</sup> As stated by Ertürk during a session of the United Nation's Permanent Forum on Indigenous Issues in 2008:

Indigenous women stand at the intersection of gender and racial inequality. ... It has also become well known that since women are not a homogenous category, gender equality strategies designed in a vacuum do not work. Failure to recognize the intersectional nature of systems of oppression and integrate a racial and gender perspective when analyzing indigenous women's status will ultimately result in further reinforcing their subordination to both patriarchy and racism. Therefore, in addressing the status of indigenous women, it is essential to identify

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<sup>10</sup> See among others: Concluding comments of the Committee on the Elimination of Discrimination against Women : Nicaragua, UN Doc., CEDAW/C/NIC/CO/6, 2 February 2007, at paragraph 31: "The Committee is concerned about the situation of indigenous and Afro-descendent women and the multiple forms of discrimination they face, which limit their de facto enjoyment of their human rights and full participation in all spheres of life."; Concluding observations of the Committee on the Elimination of Racial Discrimination : Ecuador, CERD/C/62/CO/2, 2 June 2003, paragraph 15: « The Committee notes that women belonging to ethnic minorities are subject to double discrimination, based on their ethnic origin as well as their gender. [...] In formulating the action plan on the rights of women, the State party should address the problem of double discrimination against women belonging to ethnic minorities as well as their lack of political representation in Ecuador, in line with the Committee's General Recommendation XXV on gender-related dimensions of racial discrimination »; United Nations Human Rights Council Resolution 7/24 of 28 March 2008; United Nations Human Rights Council Resolution 11/2 of 17 June, 2009.

<sup>11</sup> For more details on indigenous women multiple discrimination, see among others: F Banda and C Chinkins, Gender, Minorities and Indigenous Peoples, MRG 2004 ; See also: Jessie Fredlund, Indigenous women overcome multiple obstacles, ILO Gender Bureau and INDISCO, International Labour Organisation, 2007, available at <[http://www.ilo.org/wow/Articles/lang--en/WCMS\\_082012](http://www.ilo.org/wow/Articles/lang--en/WCMS_082012)>

<sup>12</sup> Integration of the Human Rights of Women and the Gender Perspective - Violence Against Women, Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, on trafficking in women, women's migration and violence against women, submitted in accordance with Commission on Human Rights resolution 1997/44, E/CN.4/2000/68, 29 February 2000 ; 15 Years of the United Nations Special Rapporteur on Violence against Women (1994-2009)—A Critical Review, Initiated and guided by Yakin Ertürk, United Nations, 2009.

racial elements of gender discrimination as well as the gendered elements of race discrimination.<sup>13</sup>

15. The Committee on the Elimination of Racial Discrimination (CERD) also adopted, in 2000, General recommendation XXV on gender-related dimensions of racial discrimination in order to address discrimination towards women belonging to certain ethnic groups such as indigenous women. CERD has been using this recommendation to urge States to ensure protection of the rights of indigenous women.<sup>14</sup>
16. The multiple layers and intersections of discrimination towards indigenous women was also stressed by CEDAW in several of its Concluding comments following the examination of periodic State reports. In 2007, CEDAW expressed that it was “concerned that widespread poverty and poor socio-economic conditions are among the causes of the violation of women’s human rights and discrimination against rural, indigenous and minority women. The Committee is further concerned about racism and multiple forms of discrimination against Afro-Peruvian women” and urged Peru “to pay special attention to the needs of rural, indigenous and minority women, ensuring that they participate in decision-making processes and have full access to justice, education, health services and credit facilities.”<sup>15</sup>
17. Also in 2007, CEDAW recommended that awareness-raising and legal literacy campaigns targeting women, include indigenous women and urged the State of Honduras to provide legal aid services for indigenous women and make women aware of their right to file complaints against government officials who fail to apply the relevant laws for the benefit of women and to monitor the outcome of such complaints.<sup>16</sup> Gender equality was again reported as a particular area of concern for CEDAW with regards to the most vulnerable sectors of society, including indigenous women in Brazil, because of the extra layers of discrimination they are subject to.<sup>17</sup>
18. This experience of intersectional discrimination is also shared by Batwa women in Uganda. Several reports show that Batwa women experience human rights violations as women belonging to an indigenous group which forms a minuscule proportion of the population of Uganda and which has been historically marginalised and rendered landless by the State. As Batwa, their land rights were violated as they were forcibly dispossessed of their ancestral lands, a situation that persists. They have never been compensated for this loss. Each of the violations of the Uganda Batwa women’s human

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<sup>13</sup> Yakin Ertürk, Statement at the United Nations Permanent Forum on Indigenous Issues, 18 May 2008.

<sup>14</sup> General Recommendation No 25 on gender-related dimensions of racial discrimination, Committee on the Elimination of Racial Discrimination, 2000; Concluding observations of the Committee on the Elimination of Racial Discrimination: Ecuador, CERD/C/62/CO/2, 2 June 2003, paragraph 15: « The Committee notes that women belonging to ethnic minorities are subject to double discrimination, based on their ethnic origin as well as their gender. [...] In formulating the action plan on the rights of women, the State party should address the problem of double discrimination against women belonging to ethnic minorities as well as their lack of political representation in Ecuador, in line with the Committee’s General Recommendation XXV on gender-related dimensions of racial discrimination »

<sup>15</sup> Concluding comments of the Committee on the Elimination of Discrimination against Women: Peru, UN Doc., CEDAW/C/NIC/CO/6, 2 February 2007, at paragraphs 36-37.

<sup>16</sup> Concluding comments of the Committee on the Elimination of Discrimination against Women: Honduras, UN doc., CEDAW/C/HON/CO/6, 10 August 2007, paragraph 13.

<sup>17</sup> Concluding comments of the Committee on the Elimination of Discrimination against Women: Brazil, CEDAW/C/BRA/CO/6, 10 August 2007.



rights that are presented in this report are therefore inextricably linked to their land rights.

19. The need to appreciate further this intersection between indigenous peoples' collective rights and the rights of indigenous women was stressed by the Special Rapporteur on Violence against Women (SRVAW) in a report analysing the role of the United Nations's special mechanisms:

Article 44 of the United Nations Declaration on the Rights of Indigenous Peoples (2007) emphasizes that all the rights and freedoms recognized in the Declaration are equally guaranteed to male and female indigenous individuals. The Declaration further calls upon the States to take effective measures and, where appropriate, special measures to ensure continuing improvement of the economic and social condition of indigenous peoples, with particular attention to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities. Notably, it also calls upon States to take measures to ensure that indigenous women and children enjoy full protection and guarantees against all forms of violence and discrimination. Clearly, the SRVAWs' work in relation to violence in the family and the community, in relation to culture, and in relation to the impact of economic, social and reproductive health policies requires contextualization to indigenous women to ensure that this Declaration is applied with reference to its intersection with gender-based violence, and keeping in mind indigenous women's right to be free from violence and discrimination while furthering indigenous peoples' collective rights.<sup>18</sup>

The Special Rapporteur called on the United Nations' special mechanism to take the lead in this recent area of developments in international law.

20. The submitting organisations request that the Committee adopts an approach in line with this in considering the human rights violations of Batwa women in Uganda and addresses recommendations to the State that will encompass both their collective land rights as members of an indigenous group and their human rights as women.

#### **Batwa women have yet to benefit from special measures (Article 4)**

21. While Uganda's Constitution guarantees equality and freedom from discrimination<sup>19</sup>, the rights of women<sup>20</sup>, and prescribes that affirmative action be taken to redress imbalances that exist both for women and for groups marginalised on the basis of gender, age, disability or any other reason created by history, tradition or custom<sup>21</sup>, no special measures are being taken by Uganda to address the particularly vulnerable situation of Batwa women.

22. The periodic report of Uganda submitted to the Committee makes no mention of Batwa

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<sup>18</sup> 15 Years of the United Nations Special Rapporteur on Violence against Women (1994-2009)—A Critical Review, Initiated and guided by Yakin Ertürk, United Nations, 2009, p.49.

<sup>19</sup> Uganda Constitution of 1995, Article 21.

<sup>20</sup> Uganda Constitution of 1995, Articles 33, 33(5).

<sup>21</sup> Uganda Constitution of 1995, Article 32.

people or women. Governmental disaggregated data on Batwa women are also not available. CEDAW and other UN treaty bodies often requested that States provide disaggregated data and detailed information on indigenous women.<sup>22</sup> In the same way the Special Rapporteur on the rights of women in Africa called on African States and civil society partners for further efforts in research and gathering information on the human rights situation of indigenous women in Africa.<sup>23</sup>

23. The Committee in the past recommended the adoption of special measures to overcome the impacts of the many layers of discrimination that indigenous women face.<sup>24</sup> The submitting organisations respectfully request that the Committee calls on the State to urgently take special measures to ensure the effective protection of Batwa women's rights, to gather disaggregated data on Batwa women and present the results in a report to the Committee.
24. The Committee should also request that national human rights institutions in particular such as the Uganda Human Rights Commission and newly operational Equal Opportunities Commission established by Article 32(3) and 32(4) of the Constitution and the Equal Opportunities Commission Act also report on their actions to implement the rights of Batwa women.

### **Exclusion from political and public life and representation (Articles 7, 8)**

25. Article 36 of the Constitution of Uganda states that minorities have the right to participate in decision-making processes and their views and interests shall be taken into account in the making of national plans and programmes. Article 33(4) also guarantees equal opportunities for women in political economic and social activities. However, there are no Batwa women in political positions at any level of government in Uganda. In 2010, for the first time, a disabled Mutwa campaigned and was elected as chairman of disabled people in Murambo – Butanda sub-county in Kabale district. He was also elected as the vice chairman at the Parish level. While other neighbouring countries such as Rwanda and Burundi count Batwa representatives in some political positions, Uganda has yet to ensure that both the Batwa people and Batwa women are fairly represented.

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<sup>22</sup> See for example: Concluding comments of CEDAW on Chile's second and third periodic reports, Supplement No. 38 (A/54/38/Rev.1), 1999, paragraph 232: "The Committee requests the Government to include in its next report data on progress in the situation of rural and indigenous women, especially as regards their health, employment and educational status."; See also Concluding comments of the Committee on the Elimination of Discrimination against Women: Guatemala, CEDAW/C/GUA/CO/6, 2 June 2006, paragraphs 35-36; See also: Concluding observations of the Committee on the Elimination of Racial Discrimination: ARGENTINA, CERD/C/65/CO/1, 10, December 2004, paragraph 14; See also Concluding comments of the Committee on the Elimination of Discrimination against Women: Bolivarian Republic of Venezuela, CEDAW/C/VEN/CO/6, 31 January 2006, paragraph 18.

<sup>23</sup> Statement by Soyata Maïga, Special Rapporteur on the rights of women in Africa during a side event on indigenous women's rights held on the occasion of the 44<sup>th</sup> Ordinary Session held in November 2008.

<sup>24</sup> See Concluding comments of the Committee on the Elimination of Discrimination against Women: Australia, CEDAW/C/AUL/CO/5, 3 February 2006, paragraphs 30-31; See also Concluding comments of the Committee on the Elimination of Discrimination against Women: Nicaragua, UN Doc., CEDAW/C/NIC/CO/6, 2 February 2007, at paragraph 32: "The Committee encourages the State party to adopt concrete, targeted measures to accelerate the improvement of conditions of indigenous women and women of African descent in all spheres of life. It calls upon the State party to ensure that indigenous women and women of African descent have full access to appropriate education and health services and can fully participate in decision-making processes. It requests the State party to include information and data and trends over time on the situation of indigenous women and women of African descent and on the impact of measures taken to overcome multiple discrimination against them in its next periodic report."

26. Historically and still today, Batwa people and Batwa women are not consulted in matters of political and public life and in decisions affecting their rights to own and control their ancestral lands. After the Bwindi, Mgahinga and Echuya forests creation, 82% of Batwa were entirely landless, living either as squatters on the land of others, on government land or on church land.<sup>25</sup> In 2004, 44 % of Batwa were found to not even have land on which to build a hut.<sup>26</sup> Data collected in 2007 by UOBDU show that the landless in Kisoro represent 50.4%, Kabale 61.4%, Kanungu 20.9%, while Mbarara, Katovu and Ntungamo landless represent 100% of the total house holds.<sup>27</sup>
27. As a result of their exclusion from their ancestral forests and the loss of their traditional lifestyle, the majority of Ugandan Batwa also suffer severe poverty, discrimination and socio-political exclusion. The Batwa are seen by the dominant society as backward and childish, incapable of speaking for or representing themselves. They are presumed to be thieves and are considered dirty, ignorant and immoral. They are often not allowed to draw water from a well at the same time as others, and intermarriage with other ethnic groups is frowned upon.<sup>28</sup>
28. Such discrimination is still widespread in rural areas and impacts negatively on Batwa lives on a daily basis. In this current state of affairs, Batwa women stand very little chance to be politically represented. Their low level of literacy<sup>29</sup>, the obstacles they face in employment<sup>30</sup> and their vulnerable health situation<sup>31</sup> also impede on their chances to eventually be chosen as political candidates. They are, as women, disproportionately discriminated against and are far from being perceived as potential political agents by the authorities and the members of dominant neighbouring ethnic groups.
29. In past years, the Committee also issued standards on the right to participate in political and public life as well as on the right to representation of indigenous women.<sup>32</sup> The submitting organisations respectfully request that the Committee asks Uganda to take all necessary measures to ensure that the right of Batwa women to participate in political and public life and the right to be represented be effectively implemented. In particular, the Committee should request that Uganda consults and ensures effective participation of indigenous Batwa women in decisions concerning their right to land. The right to education: only one Mutwa at university level (Article 10)

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<sup>25</sup> Kabanankye, K. and Wily, L, Report on a Study of the Abayanda Pygmies of South Western Uganda, Kabale, Mgahinga and Bwindi Impenetrable Forest Conservation Trust, 1996, at p. 116.

<sup>26</sup> United Organisation of Batwa Development in Uganda (UOBDU), *Report about Batwa data*, August 2004, Uganda, p.3.

<sup>27</sup> UOBDU, *Batwa Data of December 2007*, districts of Kisoro, Kabale, Kanungu, Mbarara, Katovu, Ntungamo, p.6

<sup>28</sup> Lewis, above note 1 at pp. 13-18.

<sup>29</sup> See the section on the right to education in this report.

<sup>30</sup> See the section on the right to employment below in this report.

<sup>31</sup> See the section on the right to health below in this report.

<sup>32</sup> Among others: Concluding comments of CEDAW on Suriname's third periodic report, General Assembly Official Records Sixty-second Session Supplement No. 38 (A/62/38), 2007, paragraphs, 308-309; Concluding comments of CEDAW on Colombia's combined fifth and sixth periodic reports, General Assembly Official Records Sixty-second Session Supplement No. 38 (A/62/38), 2007, paragraphs 432-433; Concluding comments of the Committee on the Elimination of Discrimination against Women: Australia, CEDAW/C/AUL/CO/5, 3 February 2006, paragraphs 16-17; Concluding comments of the Committee on the Elimination of Discrimination against Women: Guatemala, CEDAW/C/GUA/CO/6, 2 June 2006, paragraphs 27-28.

30. The right to education is stated in Uganda's Constitution.<sup>33</sup> However, various factors are impeding on the realisation of education rights for the Batwa. Some are socio-economic, such as poverty levels in Uganda and extreme poverty levels for the Batwa communities. The hidden costs of education, the absence of community support, the discrimination that Batwa face in schools, which includes teachers' attitudes and the culturally inadequate way in which the text books are prepared and used are other factors impeding on the Batwa's right to education in Uganda.<sup>34</sup>
31. In addition to this historical marginalisation and discrimination based on their ethnic identity, Batwa girls and young Batwa women face gender discrimination: they are dissuaded from pursuing studies in order to help sustain the family at home; they marry at an early age and too often experience severe complications during their pregnancies; because of poverty they also do not have access to the basic sanitary hygiene products necessary for them to attend classes during their menstruations, etc.<sup>35</sup>
32. After many years of sustained efforts from civil society organisations, the first Mutwa women entered university in 2009. This, however, does not represent the general situation. Literacy rates for Batwa people in general are very low and for Batwa women in the Great Lakes region they are generally much lower than those of Batwa men.<sup>36</sup> There is no official data coming from the State on education among Batwa populations. Local NGOs have carried out some studies and gathered the following information: out of 44 Batwa respondents in Kisoro, Kabala and Kanungu districts, 59.1 % have never been to school, 31.8% possess primary level and 4% possess functional adult literacy; a study published in 2008 by the African International Christian Ministry, a Uganda NGO, shows that "about 81% of the adult male Batwa and 90% of the females did not know how to read and write, interpret or manipulate numbers."<sup>37</sup>
33. The submitting organisations considerably argue that the Committee should follow the similar approach taken in its Concluding comments on Nicaragua's State report<sup>38</sup> and urge Uganda to strengthen its monitoring of progress, for women and girls, in the implementation of its educational policies and programmes and gather and report data disaggregated by sex over time, on Batwa girls' and women's education and on the impact of the measures taken in this field. The Committee should also recommend that Uganda takes steps to ensure equal access for Batwa girls and young Batwa women to all levels of education, and to retain girls in school, make every effort to improve the literacy of indigenous Batwa women, including through adequate resourcing of comprehensive programmes at the formal and non-formal levels and through adult education and training.

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<sup>33</sup> Uganda Constitution of 1995, Articles 30 and 34(2).

<sup>34</sup> F. Warrilow, *The Right to Learn: Batwa Education in the Great Lakes Region of Africa*, MRG, London, 2008.

<sup>35</sup> F. Warrilow, *The Right to Learn: Batwa Education in the Great Lakes Region of Africa*, MRG, London, 2008.

<sup>36</sup> United Organisation of Batwa Development in Uganda (UOBDU), Report about Batwa data, August 2004, Uganda, pp 6-7; Jackson, D., *Twa Women Twa Rights in the Great Lakes Region of Africa*, MRG, London, 2003, at p.14

<sup>37</sup> African International Christian Ministry, 2008, quoted in : *A Situational Analysis of Gender-based Violence against Batwa Women in Kisoro, Kabale and Kanungu districts in Southwestern Uganda*, A Research Carried out between November 2008 and April 2009 by African International Christian Ministry (AICM) and United Organisation for Batwa Development in Uganda (UOBDU), May 2009, at p.13.

<sup>38</sup> Concluding comments of the Committee on the Elimination of Discrimination against Women : Nicaragua, UN Doc., CEDAW/C/NIC/CO/6, 2 February 2007, at paragraphs 25-26

## The right to employment: forced labour and abuse (Article 11)

34. Discrimination, poverty and exclusion directly affect Batwa women and people's ability to find work and positions of responsibility in Ugandan society. The majority of Batwa communities remain isolated from the rest of Ugandan society due to their poverty and the mutual distrust that exists between the Batwa and Uganda's other ethnic groups, as well as their lack of access to information and low self-confidence in being able to take advantage of opportunities open to them. Ninety-eight percent of Batwa adults of working age living in south-west Uganda were reported to be unemployed in 2004.<sup>39</sup>
35. To survive, many Batwa women work merely as casual labourers on the farms of neighbouring communities and receive as compensation only "the right to stay on the landlord's property, cultivate a small piece of his land and [receive] handouts of food and old clothing."<sup>40</sup> This situation not only highlights the failure of Uganda to protect Batwa women's right to equitable conditions of work, it evidences the extreme and unchecked employment exploitation of the Batwa people as a group in what can only be considered as a situation akin to bonded labour or slavery.
36. Exploitation by landlords is common, with many Batwa working the farms of others in exchange for the temporary right to stay on the landlord's property. One Batwa woman described the situation in this way:

These people who let us stay on their land, they call on us to cultivate. If we refuse they say 'Move away, we no longer want you.' We are not settled here, because other local people are pressing the landowners saying 'What do you need Batwa for?' and at any time we may have to shift and settle elsewhere. If the owners are sympathetic, they move us to another bit of land, which we fertilise for them by living on it. The landlords don't let us put up toilets because they don't want anything permanent on their land, or holes which could be a problem for cultivation later. But if they catch us defecating in the fields, they are angry. My daughter was caught and was forced to remove the faeces with her hands.<sup>41</sup>

37. Generally Batwa women earn 50% less than men.<sup>42</sup> They have to rely on begging or badly paid work and struggle to afford enough food with their wages.<sup>43</sup> A study on gender-based violence against Batwa women in Uganda was carried out by civil society in 2008-2009 and showed that Batwa women in Uganda are vulnerable to abuse in the work environment, through forced labour, sexual exploitation and beatings.<sup>44</sup> Batwa women also reported that working empowers them and prevents situations where they have to

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<sup>39</sup> UOBDU, above note 26 at pp. 11, 15, 19.

<sup>40</sup> ACODE, *Living on the Margins: The Deprivation of Community-Based Property Rights of the Batwa Pygmies of South Western Uganda* (2005), p. 9

<sup>41</sup> Interview with a middle-aged Batwa woman, Nyakabande/Kisoro, Uganda, May 2003, noted in Jackson, D., *Twa Women Twa Rights in the Great Lakes Region of Africa*, MRG, London, 2003; Nelson, J. and Hossack, L. (eds.), *From principles to practice: Indigenous peoples and protected areas in Africa*, FPP, Moreton-in-Marsh, 2003. "Nowhere left to go; land loss and cultural degradation. The Twa of the Great Lakes", in World Rainforest Movement, WRM Bulletin, Issue No. 87, October 2004.

<sup>42</sup> Jackson, D., *Twa Women Twa Rights in the Great Lakes Region of Africa*, MRG, London, 2003, at p.9

<sup>43</sup> Jackson, D., *Twa Women Twa Rights in the Great Lakes Region of Africa*, MRG, London, 2003

<sup>44</sup> A Situational Analysis of Gender-based Violence against Batwa Women in Kisoro, Kabale and Kanungu districts in Southwestern Uganda, A Research Carried out between November 2008 and April 2009 by African International Christian Ministry (AICM) and United Organisation for Batwa Development in Uganda (UOBDU), May 2009, at p. 50.

negotiate sexual favours in exchange for money:

The Batwa girls from Nyakabande in Kisoro suggested that efforts aimed at preventing SGBV needed to focus on both the adult women and the girls. They argued that the girls needed to be supported to develop into self-reliant and informed citizens that could make their own decisions. They recommended that girls in school needed to be guided and counselled about sex so as to stay in and complete school to get meaningful employment rather than engaging in commercial sex. They further noted that those girls out of school should together with women be supported with seeds and land so as to generate their own incomes and be able to resist temptations from men and boys who usually lure them into sex using money and other cheap things like short cakes and handkerchiefs. Their recommendation holds water as it reflects the views of the FGD for Kabale girls who also noted that those girls who were engaged in some income generating activities were able to resist attempts by men luring them into sex with money and sweets and handkerchiefs among others.<sup>45</sup>

38. The submitting organisations respectfully request that the Committee demands that Uganda take urgent measures to ensure that Batwa women are freed from forced labour practices and are guaranteed full enjoyment of their employment rights. In particular, as previously recommended by the Committee in relation the right to employment of indigenous women in Suriname<sup>46</sup>, the submitting organisations suggest that Uganda ensures access by indigenous Batwa women to vocational training.<sup>47</sup>

### **Extreme vulnerability to reproductive health problems (Article 12)**

39. The Batwa are regularly left out of health programmes and projects, and one study has found that Batwa childhood mortality was more than double that of the general population.<sup>48</sup> Batwa women are more prone to ill health than Batwa men due to their childbearing role. Batwa women are also mainly responsible for the children's wellbeing and the lack of access to their traditional herbs and medicines as a result of their exclusion from their traditional forested territories also contributes to poor health.
40. Batwa women and girls are also prone to specific problems because of social behaviours related to beliefs on their ethnicity: other groups in Uganda believe that sexual relations with a Batwa woman can cure men from back-ache and/or protect them against HIV/AIDS. This obviously puts Batwa women and girls at increased risk of sexual assault as well as infection and STDs.<sup>49</sup> Serious reproductive health problems are widely reported

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<sup>45</sup> A Situational Analysis of Gender-based Violence against Batwa Women in Kisoro, Kabale and Kanungu districts in Southwestern Uganda, A Research Carried out between November 2008 and April 2009 by African International Christian Ministry (AICM) and United Organisation for Batwa Development in Uganda (UOBDU), May 2009, at p. 35.

<sup>46</sup> Concluding comments of CEDAW on Suriname's third periodic report, General Assembly Official Records Sixty-second Session Supplement No. 38 (A/62/38), 2007, paragraph 311.

<sup>47</sup> Concluding comments of CEDAW on Suriname's third periodic report, General Assembly Official Records Sixty-second Session Supplement No. 38 (A/62/38), 2007, paragraph 311.

<sup>48</sup> Kabanukye, K. and Wily, L, Report on a Study of the Abayanda Pygmies of South Western Uganda, Kabale, Mgahinga and Bwindi Impenetrable Forest Conservation Trust, 1996, at pp. 72-74.

<sup>49</sup> Jackson, D., Twa Women Twa Rights in the Great Lakes Region of Africa, MRG, London, 2003, at p.13.

by Batwa women in a recent study which addresses the gender-based violence experienced by Batwa women in Uganda.<sup>50</sup>

41. The Committee adopted General Recommendation 24 in relation to the implementation of Article 12 of the Convention. The recommendation states that:

While biological differences between women and men may lead to differences in health status, there are societal factors that are determinative of the health status of women and men and can vary among women themselves. For that reason, special attention should be given to the health needs and rights of women belonging to vulnerable and disadvantaged groups, such as migrant women, refugee and internally displaced women, the girl child and older women, women in prostitution, indigenous women and women with physical or mental disabilities.<sup>51</sup>

42. The Committee also expressed its concerns regarding reproductive rights of indigenous women and issued recommendations notably to Suriname<sup>52</sup>, Colombia<sup>53</sup>, Nicaragua<sup>54</sup> and Venezuela<sup>55</sup>. The submitting organisations urge the Committee to adopt the same approach and recommend that Uganda ensures health rights of Batwa women in Uganda, notably by providing them access to their traditional medicinal plants. Also Uganda should take all necessary measures to ensure that reproductive health rights of Batwa women are protected, notably by taking affirmative measures to raise social awareness on sexual illnesses and by ensuring access to free, viable and culturally sensitive reproductive health services.

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<sup>50</sup> A Situational Analysis of Gender-based Violence against Batwa Women in Kisoro, Kabale and Kanungu districts in Southwestern Uganda, A Research Carried out between November 2008 and April 2009 by African International Christian Ministry (AICM) and United Organisation for Batwa Development in Uganda (UOBDU), May 2009, at p. 27: “Over 68% of the respondents noted that they had experienced some health problems as a result of abuse. The health experience reported by respondent included: vaginal bleeding (32%), urinating without knowing (23%), and sores in the genital area (23%), smelly vaginal discharge (16%) and unwanted pregnancy (16%).”

<sup>51</sup> General recommendation 24 (twentieth session), Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women — women and health, Thailand, CEDAW, Supplement No. 38 (A/54/38/Rev.1), paragraph 6.

<sup>52</sup> Concluding comments of CEDAW on Suriname’s third periodic report, General Assembly Official Records Sixty-second Session Supplement No. 38 (A/62/38), 2007, paragraphs 314-315

<sup>53</sup> Concluding comments of CEDAW on Colombia’s combined fifth and sixth periodic reports, General Assembly Official Records Sixty-second Session Supplement No. 38 (A/62/38), 2007, paragraphs 428-429.

<sup>54</sup> Concluding comments of the Committee on the Elimination of Discrimination against Women : Nicaragua, UN Doc., CEDAW/C/NIC/CO/6, 2 February 2007, at paragraphs 17-18.

<sup>55</sup> Concluding comments of the Committee on the Elimination of Discrimination against Women: Bolivarian Republic of Venezuela, CEDAW/C/VEN/CO/6, 31 January 2006, paragraphs 31-32.

**PART IV : Recommendations and conclusion**

43. The submitting organisations respectfully request that the Committee emphasises in its recommendations to Uganda the fact that Batwa women experience multiple forms of discrimination, which are the result of the intersection between their gender and their ethnicity and that for this reason, the measures to be taken by Uganda to redress the human rights violations that Batwa women face must encompass both their collective land rights as members of an indigenous group and their human rights as women.
44. Building on the above, the submitting organisations suggest that the Committee calls on Uganda to:
- a. Urgently take special measures to ensure the effective protection of Batwa women's rights, first and foremost by taking reparation measures to restitute and/or compensate the loss of their ancestral lands and ensure that their land rights as indigenous peoples per international law are respected, in order to address the intersectional discrimination Batwa women face;
  - b. Collect and report data on Batwa women disaggregated with regards to all sectors of society, including political participation and representation, education, employment and health, and collaborate with national human rights institutions to gather this data and send a report to the Committee which includes information on the measures taken to implement the rights of Batwa women;
  - c. Take all necessary measures to ensure that the right of Batwa women to participate in political and public life and the right to be represented be effectively implemented. In particular, that Uganda consults and ensures effective participation of indigenous Batwa women in decisions concerning their right to land;
  - d. Strengthen its monitoring of progress, for women and girls, in the implementation of its educational policies and programmes and gather and report data disaggregated by sex over time, on Batwa girls' and women's education and on the impact of the measures taken in this field;
  - e. Take immediate steps to ensure equal access for Batwa girls and young Batwa women to all levels of education, and to retain girls in school, make every effort to improve the literacy of indigenous Batwa women, including through adequate resourcing of comprehensive programmes at the formal and non-formal levels and through adult education and training;
  - f. Take urgent measures to ensure that Batwa women are freed from forced labour practices and are guaranteed full enjoyment of their employment rights, and, in particular, ensure Batwa women's access to vocational training;
  - g. Guarantee the effective implementation of Batwa women's rights to health, notably by providing them access to their traditional medicinal plants;
  - h. Take all necessary measures to ensure that the reproductive health rights of Batwa women are protected, notably by taking affirmative measures to raise social awareness on sexual illnesses and by ensuring access for Batwa women to



free, viable and culturally sensitive reproductive health services.

45. In conclusion, the submitting organisations hope that a better dialogue between Batwa organisations and communities and the agencies of the government of Uganda develops and addresses the rights of the Batwa people and women. We respectfully request that the Committee encourage Uganda to pursue further dialogue towards this end with the freely chosen representatives of the Batwa, including Batwa women. Finally, we submit that Uganda's duty is to take prompt legislative, administrative and practical steps to alleviate the situation of the Batwa people and to recognize and enforce the full spectrum of their rights, in order to tackle the multiple causes of discrimination that Batwa women experience.