



## RWANDA

### Unrepresented Nations and Peoples Organization (UNPO)

Submission to the UN Office of the High Commissioner for Human Rights  
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*The Unrepresented Nations and Peoples Organization (UNPO) is an international, nonviolent, and democratic membership organisation. Its members are indigenous peoples, minorities, and unrecognised or occupied territories who aim to protect and promote their human and cultural rights and to find nonviolent solutions to conflicts which affect them.*

**Key Words:** Batwa, Constitution of Rwanda, minority rights, indigenous rights, political participation, land ownership, gender violence, justice, poverty, legal services.

#### **A. Introduction**

According to the UN, the population of Rwanda stands at 8,440,820. Recent estimates show that only around 20,000 of Rwanda's total population are Batwa. The Batwa are one of Rwanda's three ethnic groups. They make up only 0.4 % of the population whereas the Hutu and Tutsi comprise 85 % and 14 % respectively. In 1994 the Rwandan genocide resulted in the deaths of nearly one million Tutsi and Hutu Rwandans – nearly 14 percent of the Rwandan population, in addition more than more than two million fled the country. During the period of genocide rough estimates, based on a provisional census carried out by UNPO in late 1994, indicate that up to 10,000 Batwa died and another 8,000 to 10,000 fled leaving the post-war Batwa population in Rwanda at 20,000 a reduction of 30 %. The Batwa have been represented at the UNPO since 1993 and are currently represented by the Community of Indigenous Peoples of Rwanda, an amalgamation of three previous Batwa organisations, who joined together in the struggle for the rights of the Batwa community.

#### **B. Rwanda's Constitution and International Obligations**

The current Constitution of Rwanda (2003) does place emphasis on the rights of “*marginalised and excluded groups*” as stated in Article 9. However, the government refused to recognize the Batwa as a group that is marginalised and discriminated against, and this has led to them being ignored in government programmes to provide social welfare and development services such as primary healthcare, shelter and clean water. The Batwa form an isolated and marginalized group in Rwandan society. The other ethnic groups in Rwanda have traditionally looked down on them as backward and dirty. As a result they have little access to representation in government.

UNPO is concerned by Rwanda's non-ratification of ILO Convention 169 concerning Indigenous and Tribal Communities. Adoption of this convention would not necessarily direct the government's attention to any *special* or extraordinary treatment of the Batwa by virtue of their being indigenous, but would instead encourage the Rwandan government to take seriously the claims perceived as normal to non-indigenous citizens (Article 2.2a).

#### **C. Promotion and Protection of Minority Rights on the Ground**

##### **1. Political Participation - Concern about Batwa Representation**

Even though the Rwandan government have incorporated key human rights into their national constitution, and has ratified the International Covenant on Civil and Political Rights, the implementation of these rights remains very poor. The Batwa are still disadvantaged and remain poorly integrated into Rwandan society. That being the case, the Batwa people are less likely to be aware of their human rights in general and the tenets of the Covenant in particular.

The Rwandan Government's refusal to recognise the Batwa as a minority or indigenous group has created further problems. This situation leaves the Batwa community with no legal status or recognition and, being numerically small, they are prevented from actively engaging in political activities at the national level. Although the 2008 elections sparked hope for the realisation of civil liberties and the ability of minorities to participate in national debate, the Batwa community feel they remain largely invisible.

## **2. Access to Justice and the Legal Aid System**

A 2008 Legal Aid Baseline Survey<sup>1</sup> identified a number of key limiting factors for the Batwa in accessing justice in Rwanda. These include:

- the absence of an enabling legal and regulatory framework
- poor documentation of challenges in the system
- lack of client information available
- limited and disjointed funding
- the limited number of lawyers and their limited geographic reach (urban bias)
- limited awareness of the availability of legal aid services amongst the population

The result of this remaining unaddressed is a pervasive unfairness and injustice that is inherent throughout the legal system, and where a growing rift continues to divide those with able to pay for services and those who are not. A lack of understanding and access to legal advice has led, and will continue to lead, to unavoidable future problems for Batwa.

## **3. Forced Relocation and Land Rights**

The most pressing issue facing the Batwa is land ownership, intrinsically linked to their right to movement, residence and protection of property. The semi-nomadic lifestyle of the Batwa with its forest-based existence is not conducive to the land regime in Rwanda which does not recognise the Batwa right to the land on which they live.

After the 1994 genocide and resultant government accumulation of land, the Batwa lost much of their land to the thousands of people came back from exile. During this time there was much confusion as the newly-established land bills gave far-reaching powers to the government to confiscate lands that were not used or farmed properly. This created massive problems for the Batwa as they were never an agricultural people, with a culture very different from the rest of the Rwandan population. The result were that much of the wetlands that the Batwa depended on for collecting clay for making clay pots were confiscated by the government. This was a heavy blow to the Batwa community, as pottery was their key economic product.

Over a decade since the Rwandan genocide and the massive displacement that followed, Batwa people still wait to receive the compensation and land settlements that will allow them to try and rebuild their everyday lives. This discriminatory treatment represents a violation of Article 26 of the *International Covenant on Civil and Political Rights* and the *Convention on the Elimination of All Forms of Racial Discrimination* to which Rwanda is a party.

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<sup>1</sup> <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/ADF-BD-IF-2008-220-EN-RWANDA-JOINT-GOVERNANCE-ASSESSMENT-JGA.PDF>

#### **4. Deforestation and Land Use**

Increasing economic activity in Rwanda over the last decade has had implications on the Batwa. Logging and forest clearance for agriculture have also displaced a number of the Batwa many remain uncompensated and homeless. The Parliament in Rwanda has enormous autonomy to pass laws and convert land from private to public use with little consultation. The Batwa face systemic marginalisation in national planning processes and are not consulted on major land use policy and the effects on their livelihoods. They have weak powers to prevent degradation of their traditional forest lands and natural resources.

#### **5. Nomadic Practices and Identity**

The way in which the Batwa have been forced to change their traditional ways of life is a violation of ICCPR article 27. Governmental land policies disregard cultural mapping and ignore claims to designated sites, specifically the wetlands. Without these lands many Batwa have been forced into slavery and begging to make a living, often working the land of other Rwandans in exchange for food.<sup>2</sup>

#### **6. Gender-Based Violence**

A recent survey amongst Batwa women has revealed that they suffer violence more than women in other Rwandan communities. Sixty one percent of the women interviewed for the survey in Rwanda said the level of violence against Batwa women is greater than against other women.<sup>3</sup> Sexual abuse against the women of the Batwa community has been rising over the years. The causes for these forms of abuse and violence varied between the respondents. However, a majority of Batwa women in Rwanda felt that extreme poverty was the main factor for the violence.

#### **7. Economic Social and Cultural Rights– Poverty, Employment and Social Services**

In Rwanda as a whole 62.5% of rural men and women consider themselves illiterate, and this number steeply rises when looking at the Batwa, 91% of whom have no formal education, as poverty prevents the majority of the community being able to afford this. There is strong evidence to suggest that many children in the community are malnourished, and as a consequence the Batwa children who are in poor health are unable to compete with others academically.<sup>4</sup>

The Batwa have the highest incidences of poverty and lowest access to social services of all Rwandans. Not only does the Constitution fail to recognise any economic, social and cultural rights, but the government refuses to recognise traditional indigenous activities such as hunter gatherer systems as a viable livelihood. Thus poverty forces some Batwa into modern day slavery. Additionally, understaffed social and health services are distributed unevenly, leaving groups such as the Batwa particularly inhibited from access to them due to their semi-nomadic lifestyles.

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<sup>2</sup> <http://www.irinnews.org/InDepthMain.aspx?InDepthId=9&ReportId=58633&Country=Yes>

<sup>3</sup> <http://www.minorityrights.org/9985/press-releases/high-rates-of-violence-against-women-from-africas-indigenous-batwa-community-ndash-new-research.html>

<sup>4</sup> <http://www.monitor.co.ug/News/National/-/688334/929040/-/x0a6cn/-/>

## **D. Recommendations**

- Developing the legislative framework to secure the rights of minorities: to recognise the Batwa by name, to allow them vital government support in education, housing and to promote stronger guarantees against land dispossession.
- The signing of ILO Convention 169 and measures taken to promote its efficacy in supporting indigenous rights, and be trickled into domestic law.
- The employment of measures to restore the environment. Monitor activities such as tourism to mitigate their environmental impact and ensure their sustainability. Working more closely with local NGOs to ensure development projects are both equitable and effective. The introduction of significant punishment for illegal logging.
- Publication of data on budget allocation to promote transparency and combat accusations of discriminatory fund allocations. Taking affirmative action to develop policies to initiate a poverty reduction strategy. Offering of incentives to employ local people.
- The government acknowledge the need for disaggregated data by gender and ethnicity to allow policies to be developed to address violence against women. A pre-requisite for this is that governments recognise the diversity of the population and acknowledge the existence of minorities and indigenous people by name.
- To put in place mechanisms for the provision of legal aid to allow justice to be accessible to those in need rather than remaining a prerogative of those who can afford it.